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(These pages include changes made by Treasury Decisions 82-35 through 82-116.)

(March - June, 1982)

NOTICE

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CR: 17, 18*, 39*, 40, 49, 50*, 53, 54*, 54.1*, 57*, 58*, 58.1*, 75, 76*, 101* 102, 107*, 108, 147, 148*, 165*, 166*, 167*, 168, 169*, 170*, 171*, 172*, 173*, 174*, 175*, 187, 188*, 251*, 252, 253*, 254*, 255, 256*, 257*, 257.1*, 258, 297*, 298*, 299*, 325*, 326, 367*, 368, 369, 370*, 375, 376*, 409, 410*, 415*, 416, 425*, 426, 483*, 483.1*, 484, 485, 486*.

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CRP: 1, 2, 2.1.

CRI: 3, 4, 9, 10, 35, 36.

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DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

NOTICE

Department of the Treasury
Office of the Commissioner of Customs,
Washington, D.C. APR 29 1981

The following regulations have been made and published for the purpose of carrying out the Customs laws and the navigation and other laws administered by the United States Customs Service. They shall be strictly observed and complied with in all cases, unless compliance therewith is expressly waived in writing.

This volume may be cited as the "Customs Regulations" or as "19 CFR Ch. I" (Title 19, Chapter I, Code of Federal Regulations).

These regulations have been issued by the Commissioner of Customs, with the approval of the Secretary of the Treasury, pursuant to the respective statutory provisions cited at the beginning of each part or at the end of the particular section, and pursuant to orders of the Secretary of the Treaury relating to the rights, privileges, powers, and duties of the Commissioner of Customs and other personnel in the United States Customs Service (Treasury Department Order No. 165, Revised (T.D. 53654), and subsequent Treasury Department Orders, as reproduced on the following pages).

The appendix to this volume, in addition to general reference material, contains the text of, or references to, sections of law and the text of regulations administered by other Government departments or agencies and enforced wholly or in part by the United States Customs Service.

This reprint includes all changes to the regulations through March 31, 1981 (Treasury Decision 81-19). While every effort has been made to ensure correctness, users may notify the U.S. Customs Service, Regulations and Information Division, Room 2426, Washington, D.C. 20229, of any typographical or printing errors in order that corrections may be made. Suggestions for improvement also are requested.

For Jack T. Lacy
Acting Commissioner of Customs

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DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

(T. D. 53654)

Treasury Department Order No. 165, Revised

Delegation to the Commissioner of Customs of general authority over functions in the Bureau of Customs

Treasury Department,
Washington, D.C., Nov. 2, 1954.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp. Ch. III), it is hereby ordered:

1. There are hereby transferred to the Commissioner of Customs the functions of all officers, employees, and agencies of the Bureau of Customs and, subject to the exceptions hereinafter specified, all the rights, privileges, powers, and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws administered by the Bureau of Customs, or by any other law to the extent that it is administered by the Bureau of Customs.

(a) Regulations shall be prescribed by the Commissioner of Customs, with the approval of the Secretary of the Treasury, except that regulations and instructions, not inconsistent with the general rules and regulations of the Treasury Department, which are effective only against persons in their capacity as officers, agents, or employees of the Customs Service, and which do not prescribe procedures which the public should know or follow in dealing with the Customs Service, may be prescribed by the Commissioner of Customs without the approval of the Secretary of the Treasury.

(b) Requirements of regulations which may be waived in accordance with law may be waived by the Commissioner of Customs.

(c) Determinations under section 201(a), Antidumping Act, 1921, as amended, that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value shall be made, advice to the United States Tariff Commission of each such determination shall be given, and public notice of his determination and the determination of the said Commission, (the "finding" contemplated by section 201(a), *supra*) shall be given, by the Secretary of the Treasury. **[TD 55515.]**

(d) The ascertainment, determination, or estimation, and declaration of bounties or grants under section 303, Tariff Act of 1930, shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury, except that, when the Commissioner, with the approval of the Secretary, has determined and declared a rule for calculating or estimating the net amount of any such bounty or grant, any customs officer authorized by the Commissioner of Customs may ascertain and determine, or estimate, the net amount of the bounty or grant paid or bestowed in respect of each particular lot of imported merchandise.

(e) Findings under section 307, Tariff Act of 1930, whether any class of goods, wares, articles, or merchandise is mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions, and findings whether such goods, wares, articles, or merchandise so mined, produced, or manufactured are mined, produced or manufactured in such quantities in the United States as to meet the consumptive demands of the United States, shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury.

(f) Any authority which may be vested in the Secretary of the Treasury by a proclamation of the President made pursuant to section 318, Tariff Act of 1930, shall be exercised by the Secretary of the Treasury.

(g) Any order under section 511, Tariff Act of 1930, prohibiting the importation of merchandise or instructing a collector to withhold delivery of merchandise shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury.

(h) Any decision with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) in excess of $100,000 shall be made by the Secretary of the Treasury, except decisions with respect to claims (including claims for liquidated damages), fines, or penalties (including forfeitures) incurred or arising under: **[TDs 53966, 12/5/55; 54234, 10/29/56; 56276, 9/23/64.]**

(1) Section 3114, Revised Statutes, as amended (19 U. S. C. 257), for failure to report, make entry, and pay duties on certain equipments and repairs for certain vessels;

(2) Section 432, Tariff Act of 1930 (19 U.S.C. 1432), for omitting from the vessel manifest any articles to be retained on board as sea stores, ship's stores, or bunker coal or bunker oil, or for landing any such articles without the required permit;

(3) Section 453, Tariff Act of 1930 (19 U.S.C. 1453), for lading or unlading merchandise or baggage valued at $500 or more without obtaining the required license or permit;

(4) Section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or to file a manifest as required by section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459) in the following cases;

> (i) Violations due to ignorance of the reporting requirements or to inadvertence and either no merchandise, or only typical personal or souvenir merchandise which would have been free of duty, if entered, is carried on the vessel or vehicle, or
>
> (ii) Where the violation is the first offense, although not due to ignorance or inadvertence, and no intended commercial use or threat to the revenue is involved;

(5) Section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), for having on board, or unlading from, a vessel or vehicle, any merchanidse which is not included or described in the manifest or does not agree therewith;

(6) Section 8 or 204 (b), Anti-Smuggling Act, approved August 5, 1935 (19 U.S.C. 1708, 1584), for failure of a vessel not exceeding 500 net tons importing spirits, wines, or other alcoholic liquors to have the certificate required by section 7 of the Anti-Smuggling Act (19 U.S.C. 1707);

(7) Section 585, Tariff Act of 1930, as amended (19 U.S.C. 1585), in respect of any vessel or vehicle which departs or attempts to depart from any collection district

without making the required report or entry, or unlades any merchandise before such report or entry;

(8) Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592); **[TD 73-261.]**

(9) The Act of February 24, 1915 (46 U.S.C. 14), for false oath to obtain a register for a wrecked vessel;

(10) Section 4143, Revised Statutes (46 U.S.C. 21), for false oath as to ownership by owner to obtain registry of vessel;

(11) Section 4163, Revised Statutes (46 U.S.C. 33), for false oath by agent or attorney to obtain registry of a vessel;

(12) Section 4177, Revised Statutes, as amended (46 U.S.C. 45), in respect of documented vessels failing to have the required number permanently marked;

(13) Section 4179, Revised Statutes (46 U.S.C. 50), for changing, or engaging in deceptive practices with respect to, the name of a documented vessel;

(14) Section 4189, Revised Statutes, as amended (46 U.S.C. 60), in respect of any vessel for which any certificate of registry, enrollment or license, or other record or document granted in lieu thereof is knowingly and fraudulently obtained or used;

(15) Section 4153, Revised Statutes, as amended (46 U.S.C. 77), in respect of documented vessels for failing to have the number denoting net tonnage permanently marked;

(16) Section 4339, Revised Statutes (46 U.S.C. 272), for refusal to take, or for taking falsely, the required oath with respect to equipment and repairs for vessels;

(17) Section 4337, Revised Statutes (46 U.S.C. 278), in respect of vessels proceeding on a foreign voyage while enrolled and licensed or licensed;

(18) Section 1 of the Act of May 28, 1906 (46 U.S.C. 292), in respect of foreign-built dredges engaging in dredging in the United States;

(19) Section 4365, Revised Statutes (46 U.S.C. 311), in respect of vessels licensed for the fisheries and found within three leagues of the coast with foreign merchandise exceeding $500 in value on board without having the permission to touch and trade at foreign ports required by section 4364, Revised Statutes (46 U.S.C. 310);

(20) Section 4370, Revised Statutes, as amended (46 U.S.C. 316 (a) and (d)), in respect of any vessel employed in towing in violation of subsection (a) of that section, as amended, or of any foreign vessel engaging in salvaging operations not excepted or authorized by subsection (d) of that section, as amended;

(21) Section 7, Act of June 9, 1886, as amended (46 U.S.C. 319), in respect to certain vessels trading coastwise, or engaged in the fishery, without a valid document and in respect of such vessels having on board foreign merchandise or taxable alcoholic liquors on which the duties or taxes have not been paid or secured to be paid;

(22) Section 4377, Revised Statutes, as amended (46 U.S.C. 325), in respect only of licensed vessels employed in any other trade than that for which licensed, found with a forged or altered license or one granted for any other vessel, or found with any foreign merchandise or taxable alcoholic liquors on board on which the duties or taxes have not been paid or secured to be paid;

(23) Section 4240, Revised Statutes (46 U.S.C. 723), in respect of any vessel transporting to a foreign port any property taken from a wreck within United States jurisdiction off the coast of Florida;

(24) Section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), in respect of merchandise transported coastwise in a vessel ineligible under that section to engage in such transportation;

(25) Bonds taken pursuant to section 308, Tariff Act of 1930, as amended (19 U.S.C. 1308), if the Commissioner is satisfied that the importation was properly entered under section 308 and there was no intent to defraud the revenue or delay the payment of duty;

(26) Bonds taken pursuant to section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), if the marking duty due under section 304 of the tariff act has been deposited and the Commissioner is satisfied that the importer was not quilty of negligence or bad faith in permitting the non-properly-marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery;

(27) Bonds taken pursuant to section 551, Tariff Act of 1930, as amended (19 U.S.C. 1551), if the Commissioner is satisfied that all the merchandise in respect of which the claim for liquidated damages was incurred has actually been reported or destroyed and that any failure to obtain customs supervision was without intent to evade any law or regulation;

(28) Bonds taken pursuant to section 565, Tariff Act of 1930 (19 U.S.C. 1565);

(29) Bonds taken pursuant to section 1 (par. 1101), Tariff Act of 1930, as amended (19 U.S.C. 1001, par. 1101), if no loss of revenue is involved;

(30) Any bond for failure to make entry and deposit estimated duties and taxes or for failure to produce required documents within the time required by the law or regulation, if the Commissioner is satisfied that such failure was not due to any purpose to evade any law or regulation;

(31) Section 2 of the Act of July 14, 1956 (46 U.S.C. 883a), in respect of certain vessels of more than 500 gross tons rebuilt abroad for which the required report of the circumstances of rebuilding is not made; and **[TD 54412; 8/1/57.]**

(32) Section 27A, Merchant Marine Act of 1920, as amended (46 U.S.C. 883-1), so far as that section imposes any fine or penalty (including forfeiture) for falsifying any certificate under oath or for transporting merchandise or passengers for hire. **[TD 54745; 12/4/58.]**

(i) An award of compensation to an informer under section 619, Tariff Act of 1930, shall be made by the Commissioner of Customs only with the approval of the Secretary of the Treasury when claimed in connection with any decision which has been acted upon or approved by the Secretary of the Treasury.

(j) The authority conferred by the President upon the Secretary of the Treasury by Executive Order 10289 (3 CFR, 1951 Supp., Ch. II) with respect to the organization of the Customs Service and to laws administered by the Bureau of Customs shall be exercised by the Secretary of the Treasury.

(k) Any decision as to whether to waive compliance with the navigation laws pursuant to the Act of December 27, 1950, 64 Stat. 1120 (46 U.S.C. Chapter 1 Note), shall be made by the Secretary of the Treasury, except that the

Commissioner of Customs shall waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. **[TD 74-175.]**

2. All functions, rights, privileges, powers, and duties transferred by this order may be delegated by the Commissioner of Customs to subordinates in the Bureau of Customs in such manner as he shall from time to time direct.

3. This order revises Treasury Department Order No. 165, as issued on December 15, 1952 (T.D. 53160), and supersedes Treasury Department Order No. 165-1 (T. D. 53332), and shall other orders and instructions heretofore issued to the extent that such orders or instructions are inconsistent herewith. The purposes of this order are to eliminate from the citation of authority for the delegation section 3 of the Act of March 3, 1927 (5 U.S.C. 281b), which was repealed in pertinent part by section 10 of the Act of September 3, 1954, 68 Stat. 1229; to reissue the delegation so that it will cover all pertinent laws in effect on the date hereof; and to eliminate the requirement that findings of dumping under section 201 (a), Antidumping Act, 1921, be approved by the Secretary and substitute therefor the above reservation to the Secretary of determinations of sales or likelihood of sales of merchandise at less than its fair value and the giving of advice of such determinations of the United States Tariff Commission. Delegations of authority heretofore issued by the Commissioner or Acting Commissioner of Customs pursuant to the Treasury Department Orders revised or superseded by this order are not affected hereby. (19 FR 7241, 11/6/54)

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

(T. D. 53368)

TREASURY DEPARTMENT ORDER NO. 165-2

Transfer to the Commissioner of Customs of certain functions heretofore delegated to the Commissioner of Internal Revenue

Treasury Department,
Washington, D.C.

* * * * * * *

October 29, 1953.

TREASURY DEPARTMENT ORDER NO. 165-2

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp. ch. III), it is hereby ordered that effective January 1, 1954, there shall be transferred from the Commissioner of Internal Revenue to the Commissioner of Customs the function of refunding excess deposits of internal-revenue tax, previously collected by collectors of customs, which are found by collectors of customs upon liquidations or reliquidations made on or after January 1, 1954, to be due and the functions prescribed by 26 U.S.C. 3771(a), (b), (2) (53 Stat. 465) of determining, allowing, and paying interest in connection with such refunds.

The functions herein transferred may be delegated by the Commissioner of Customs to other officers or employees of the Customs Service in such manner as the Commissioner shall direct.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

(T. D. 54803)

TREASURY DEPARTMENT ORDER NO. 165-2—Amendment 1

Treasury Department,
Washington, D.C., March 9, 1959.

Treasury Department Order No. 165-2 dated October 29, 1953, T.D. 53368 (18 F.R. 7177) transferred from the Commissioner of Internal Revenue to the Commissioner of Customs the function of refunding excess deposits of internal revenue tax, previously collected by collectors of customs, which are found to be due to the functions of determining, allowing, and paying interest in connection with such refunds.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp., Ch. III) there are hereby transferred from the Commissioner of Customs, to the Commissioner of Internal Revenue the functions of refunding such deposits, and of determining, allowing, and paying interest, in any case in which the allowance or making of the refund is not now or hereafter excepted from the application of section 6423 of the Internal Revenue Code of 1954, as added by the Act of February 11, 1958, (Public Law 85-323).

The functions herein transferred may be delegated by the Commissioner of Internal Revenue to subordinates in such manner as he shall direct.

In all other respects Treasury Department Order No. 165-2 dated October 29, 1953, shall remain in full force and effect.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

(T. D. 54222)

TREASURY DEPARTMENT ORDER NO. 165-5

Delegation to the Commissioner of Customs of the functions under Public Law No. 362—84th Congress—1st Session

Treasury Department
Washington, D.C., October 17, 1956.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp. ch. III), there are transferred to the Commissioner of Customs all the functions of the Secretary of the Treasury under Public Law No. 362—84th Congress, 1st Session (Act of August 11, 1955, 21 U.S.C. 198a, 198b, 198c).

The functions herein transferred may be delegated by the Commissioner of Customs to subordinates as he deems necessary.

The transfer of functions to the Commissioner of Customs by this order is in addition to the transfer of functions to the Commissioner of Narcotics by Treasury Department Order No. 180-3, dated August 22, 1955, published in the Federal Register on August 26, 1955. The intent of the two orders is to transfer the functions to the two commissioners to be performed in their respective fields of operation.

(191.1)

DAVID W. KENDALL
Acting Secretary of the Treasury.

(T. D. 54385)

TREASURY DEPARTMENT ORDER NO. 165-6

Delegation to the Commissioner of Customs of authority to make refunds of import tax under section 6418(a) of the Internal Revenue Code of 1954, as amended

Treasury Department
Washington, D.C., June 26, 1957

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp., Ch. III) and section 6418(a) of the Internal Revenue Code of 1954, as amended, there is hereby delegated to the Commissioner of Customs the authority contained in section 6418(a) of the Internal Revenue Code, as amended, to make refunds of import taxes paid under section 4501 of the Internal Revenue Code of 1954, as amended, or any extensions thereof, with respect to manufactured sugar or articles composed in chief value of manufactured sugar.

The authority herein delegated may be redelegated by the Commissioner of Customs to other officers or employees of the Customs Service in such manner as the Commissioner shall direct.

(191.1)

DAVID W. KENDALL
Acting Secretary of the Treasury

(T. D. 54699)

Drawback of Internal Revenue Tax

Treasury Department Order No. 165-9 dated August 13, 1958 transfers and delegates to the Commissioner of Customs authority to allow drawback of internal revenue tax on domestic alcohol under section 313(d) of the Tariff Act of 1930, as amended

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., September 30, 1958.

To Collectors of Customs and Others Concerned:

There is published below for your information and guidance Treasury Department Order No. 165-9 dated August 13, 1958. It will be noted that the Order shall be effective January 1, 1959.

(733.1)

D. B. STRUBINGER,
Acting Commissioner of Customs.

TREASURY DEPARTMENT ORDER NO. 165-9

Transfer and delegation to the Commissioner of Customs of authority to allow drawback of internal revenue tax on domestic alcohol under section 313(d) of the Tariff Act of 1930, as amended

Treasury Department,
Washington, D.C., August 13, 1958.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp., Ch. III) there is hereby transferred from the Commissioner of Internal Revenue and delegated to the Commissioner of Customs the function, authorized by section 313(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), of allowing the drawback of an amount equal to the internal revenue tax found to have been paid on domestic alcohol used in the manufacture or production in the United States of flavoring extracts and medicinal or toilet preparations (including perfumery) that have been exported.

The function herein transferred and delegated may be delegated by the Commissioner of Customs to other officers or employees of the Customs Service in such manner as the Commissioner shall direct.

This Order shall be effective January 1, 1959.

FRED C. SCRIBNER, JR.,
Acting Secretary of the Treasury.

(T. D. 54696)

TREASURY DEPARTMENT ORDER NO. 165-10

Delegation to the Commissioner of Customs of function of publishing notice in the Federal Register required by section 201(b) of the Antidumping Act, 1921, as amended

Treasury Department,
Washington, D.C., September 23, 1958.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp. Ch. III), there is hereby transferred to the Commissioner of Customs the function of publishing the notice in the Federal Register which is required by section 201(b) of the Antidumping Act, 1921, as amended by the Act of August 14, 1958, Public Law 85-630 (19 U.S.C. 160(b)).

(191.1)

A. GILMORE FLUES,
Acting Secretary of the Treasury.

(T. D. 55407)

TREASURY DEPARTMENT ORDER NO. 165-11

Establishment of Offices of Deputy Commissioner, Bureau of Customs

Treasury Department,
Washington, D.C., June 20, 1961.

By virtue of the authority vested in me as Secretary of the Treasury, there are hereby established in the Bureau of Customs new offices designated as Deputy Commissioner of Customs, as follows:

Deputy Commissioner, Division of Classification and Drawbacks

Deputy Commissioner, Division of Entry, Value, and Penalties

Deputy Commissioner, for policy planning

(161.4)

A. GILMORE FLUES,
Assistant Secretary of the Treasury.

(T.D) 55460)

Treasury Department Order No. 165-12

Delegation to the Commissioner of Customs of certain collection functions relating to imported tobacco materials, tobacco products, and cigarette papers and tubes, heretofore delegated to the Commissioner of Internal Revenue

Treasury Department,
Washington, D.C. August 29, 1961.

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp., Ch. III), and pursuant to authorization given to me by Treasury Department Order No. 190 (26 F.R. 7019), there are transferred from the Commissioner of Internal Revenue and delegated to the Commissioner of Customs the functions of collecting the taxes imposed on tobacco materials, tobacco products, and cigarette papers and tubes imported or brought into the United States on which internal-revenue taxes under section 5701 and section 7652 of the Internal Revenue Code, as amended, are due and payable at the time of release from customs custody in accordance with the method prescribed by regulations of the Internal Revenue Service.

It is hereby ordered that the provisions of Treasury Department Order No. 165-2 (18 F.R. 7177) and Amendment 1 thereof (24 F.R. 1991) are applicable to refunds of such collections.

The functions herein delegated to the Commissioner of Customs may be delegated by him to subordinates in such manner as he shall direct.

This order shall be effective October 1, 1961.

(26 FR 8400)

HENRY H. FOWLER,
Under Secretary of the Treasury.

(T.D. 55508)

Treasury Department Order No. 165-13

Establishment of Offices of Deputy Commissioner, Bureau of Customs

Treasury Department,
Washington, D.C., November 3, 1961

By virtue of the authority vested in me as Secretary of the Treasury, there are hereby established in the Bureau of Customs new offices designated as Deputy Commissioner of Customs, as follows:

Deputy Commissioner, Division of Marine Administration

Deputy Commissioner, Division of Technical Services

(26 FR 10643)

DOUGLAS DILLON,
Secretary of the Treasury.

(T.D. 56261)

Treasury Department Order No. 165-15

Establishment of certain new offices and redesignation of existing offices in the Bureau of Customs

Treasury Department,
Washington, D.C., September 18, 1964

By virtue of the authority vested in me as Secretary of the Treasury, there are hereby established in the Bureau of Customs new offices designated as follows:

Office of Regulations and Rulings
Office of Operations
Office of Administration
Office of Investigations

There is also established a Division of Collectors' Operations.

To the extent that the Commissioner of Customs determines feasible, the functions of the present Divisions of the Bureau of Customs are assigned as follows:

Divisions of Classification and Drawback; Entry, Value and Penalties; and Marine Administration to the Office of Regulations and Rulings.

Divisions of Appraisement Administration; Technical Services; and Collectors' Operations to the Office of Operations.

Division of Management and Controls to the Office of Administration.

Division of Investigations and Enforcement to the Office of Investigations.

The Divisions of Management and Controls and Investigations and Enforcement are abolished on the establishment of the new offices.

Nothing in this Order is to be interpreted to preclude the Commissioner of Customs from assigning to any of the appropriate offices any of the functions or activities of any division which he determines is necessary or desirable.

Each of the above offices and divisions will be headed by a Deputy Commissioner of Customs.

This Order shall become effective on October 1, 1964.
(29 F.R. 13351)

DOUGLAS DILLON,
Secretary of the Treasury.

Treasury Department Order No. 165-16

ACTING COMMISSIONER OF CUSTOMS

Designation

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, Assistant Commissioner of Customs Lester D. Johnson is designated, effective upon the resignation of Philip Nichols, Jr., as Commissioner of Customs, to serve as Acting Commissioner of Customs with authority to perform all functions, without limitation, now authorized to be performed by the Commissioner of Customs. Mr. Johnson will continue to serve in this capacity until a new Commissioner of Customs has been appointed and assumes the duties of the office.

Note: The resignation of Philip Nichols, Jr., as Commissioner of Customs took effect on October 1, 1964, at 6:00 p.m. The designation of Lester D. Johnson as Acting Commissioner of Customs therefore became effective at that time.

Dated: September 30, 1964.
(29 F.R. 13909, 10/8/64)

DOUGLAS DILLON
Secretary of the Treasury.

(T.D. 56464)

Treasury Department Order No. 165-17

Reorganization of the Customs field service

Treasury Department,
Washington, D.C., August 10, 1965

Pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization Plan No. 26 of 1950 (3 CFR Ch III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR Ch II), it is hereby ordered that:

Customs regions, customs district in said regions, offices of regional Commissioner of Customs for said regions, and offices of district director of customs for said districts are created, existing customs-collection districts are abolished, and the effective dates of abolition by Reorganization Plan No. 1 of 1965 of the offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise to which appointments are required to be made by the President by and with the advice and consent of the Senate are specified, as follows: **[TD 66-25.]**

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
I Boston, Massachusetts, comprising Customs Districts Portland, Me., St. Albans, Boston, Providence, Bridgeport, Ogdensburg, and Buffalo	May 1, 1966	Portland, Maine	The States of Maine and New Hampshire except the County of Coos	May 1, 1966	District No. 1 (Maine and New Hampshire) and Collector of Customs for said district-May 1, 1966
		St. Albans, Vermont	The State of Vermont and the County of Coos, New Hampshire	May 1, 1966	District No. 2 (Vermont) and Collector of Customs for said district-May 1, 1966
		Boston, Massachusetts	The State of Massachusetts	May 1, 1966	District No. 4 (Massachusetts) and Collector of Customs for said district-May 1, 1966
		Providence, Rhode Island	The State of Rhode Island	May 1, 1966	District No. 5 (Rhode Island) and Collector of Customs for said district-May 1, 1966
		Bridgeport, Connecticut	The State of Connecticut	May 1, 1966	District No. 6 (Connecticut) and Collector of Customs for said district-May 1, 1966

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
		Ogdensburg, New York	The Counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York	May 1, 1966	District No. 7 (St. Lawrence) and Collector of Customs for said district-May 1, 1966
		Buffalo, New York	The Counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, Erie, Niagara, Cattaraugus, Chautauqua, and Tioga in the State of New York	May 1, 1966	District No. 8 (Rochester) and Collector of Customs for said district-May 1, 1966 District No. 9 (Buffalo) and Collector of Customs for said district-May 1, 1966 Comptroller of Customs District No. 1 (Boston) and Comptroller of Customs for said district-May 1, 1966
II New York City, New York, comprising Customs District New York City	June 1, 1966	New York City, New York	The Counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg.	June 1, 1966	District No. 10 (New York) and Collector of Customs for said district-June 1, 1966 Comptroller of Customs, District No. 2 (New York) and Comptroller of Customs for said district-June 1, 1966 U.S. Appraiser of Merchandise-June 1, 1966 Surveyor of Customs-June 1, 1966
III Baltimore, Maryland, comprising Customs Districts Philadelphia, Baltimore, and Norfolk	April 1, 1966	Philadelphia, Pennsylvania	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	April 1, 1966	District No. 11 (Philadelphia) and the Collector of Customs for said district-April 1, 1966 District No. 12 (Pittsburgh) and the Collector of Customs for said district-April 1, 1966 Comptroller of Customs District No. 3 (Philadelphia) and the Comptroller of Customs for said district-April 1, 1966
		Baltimore, Maryland	The State of Maryland and the District of Columbia	April 1, 1966	District No. 13 (Maryland) and the Collector of Customs for said district-April 1, 1966 Comptroller of Customs District No. 4 (Baltimore) and the Comptroller of Customs for said district-April 1, 1966
		Norfolk, Virginia	The State of Virginia and West Virginia	April 1, 1966	District No. 14 (Virginia) and the Collector of Customs for said district-April 1, 1966

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
IV Miami, Florida, comprising Customs Districts Wilmington, Charleston, Savannah, Tampa, Miami, San Juan, and Charlotte Amalie, St. Thomas	February 1, 1966	Wilmington, North Carolina	The State of North Carolina	February 1, 1966	District No. 15 (North Carolina) and the Collector of Customs for said district-February 1, 1966
		Charleston, South Carolina	The State of South Carolina	February 1, 1966	District No. 16 (South Carolina) and the Collector of Customs for said district-February 1, 1966
		Savannah, Georgia	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Georgia	February 1, 1966	District No. 17 (Georgia) and the Collector of Customs for said district-February 1, 1966
		Tampa, Florida	The north shore of the St. Marys River and the City of St. Marys, Georgia, and all the State of Florida lying east of the east bank of the Ochlockonee River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade.	February 1, 1966	District No. 18 (Florida) and the Collector of Customs for said district-February 1, 1966
		Miami, Florida	The Counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida	February 1, 1966	
		San Juan, Puerto Rico	The Commonwealth of Puerto Rico	February 1, 1966	District No. 49 (Puerto Rico)-February 1, 1966
		Charlotte Amalie, St. Thomas, Virgin Islands	All of the Virgin Islands of the United States	February 1, 1966	District No. 51 (Virgin Islands)-February 1, 1966
V New Orleans, Louisiana, comprising Customs Districts Mobile and New Orleans	February 1, 1966	Mobile, Alabama	The State of Alabama and that part of the State of Mississippi lying south of 31° north latitude, and that part of the State of Florida lying west of the east bank of the Ochlockonee River.	February 1, 1966	District No. 19 (Mobile) and the Collector of Customs for said district-February 1, 1966
	February 1, 1966	New Orleans, Louisiana	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of 31° north latitude	February 1, 1966	District No. 20 (New Orleans) and the Collector of Customs for said district-February 1, 1966 District No. 43 (Tennessee) and the Collector of Customs for said district-February 1, 1966

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
					Comptroller of Custom District No. 6 (New Orleans) and the Comptroller of Customs for said district-February 1, 1966
VI Houston, Texas, comprising Customs Districts Port Arthur, Galveston, Houston, Laredo, and El Paso	May 1, 1966	Port Arthur, Texas	That part of the State of Texas from Sabine Pass north along state line to north boundary line of Selby County; west to Neches river; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana	May 1, 1966	District No. 21 (Sabine) and the Collector of Customs for said district-May 1, 1966
		Galveston, Texas	The Counties of Galveston, Matagorda, Chambers, Calhoun, Refugio, Brazoria, San Patricio, Nueces, and Aransas in the State of Texas	May 1, 1966	District No. 22 (Galveston) and the Collector of Customs for said district-May 1, 1966
		Houston, Texas	That part of the State of Texas lying east of 97° west longitude, except the territory embraced in the Port Arthur and Galveston districts. Also the counties of Dallas and Tarrant and the State of Oklahoma	May 1, 1966	
		Laredo, Texas	That part of the State of Texas lying west of 97° west longitude and east of the Pecos River except that territory included in the Houston and Galveston districts	May 1, 1966	District No. 23 (Laredo) and the Collector of Customs for said district-May 1, 1966
		El Paso, Texas	That part of the State of Texas lying west of the Pecos River and the States of New Mexico and Colorado	May 1, 1966	District No. 24 (El Paso) and the Collector of Customs for said district-May 1, 1966 District No. 50 (New Mexico) and the Collector of Customs for said district-May 1, 1966 District No. 47 (Colorado) and the Collector of Customs for said district-May 1, 1966

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
VII Los Angeles, California, comprising Customs Districts Nogales, San Diego, and Los Angeles	January 1, 1966	Nogales, Arizona	The State of Arizona	January 1, 1966	District No. 26 (Arizona) and the Collector of Customs for said district-January 1, 1966
		San Diego, California	The Counties of San Diego and Imperial in the State of California	January 1, 1966	District No. 25 (San Diego) and the Collector of Customs for said district-January 1, 1966
		Los Angeles, California	That part of the State of California lying south of the northern boundaries of the Counties of San Luis Obispo, Kern, and San Bernardino, except the Counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County	January 1, 1966	District No. 27 (Los Angeles) and the Collector of Customs for said district-January 1, 1966
VIII San Francisco, California comprising Customs Districts San Francisco, Honolulu, Portland, Oregon, Seattle, Juneau, and Great Falls	November 1, 1965	San Francisco, California	That part of the State of California lying north of the northern boundaries of the Counties of San Luis Obispo, Kern, and San Bernardino, and the State of Utah and the State of Nevada, except Clark County	November 1, 1965	District No. 28 (San Francisco) and the Collector of Customs for said district-November 1, 1965 Comptroller of Customs, District No. 7-November 1, 1965
		Honolulu, Hawaii	The State of Hawaii	November 1, 1965	District No. 32 (Hawaii) and the Collector of Customs for said district-November 1, 1965
		Portland, Oregon	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude	November 1, 1965	District No. 29 (Oregon) and the Collector of Customs for said district-November 1, 1965
		Seattle, Washington	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude	November 1, 1965	District No. 30 (Washington) and the Collector of Customs for said district-November 1, 1965
		Juneau, Alaska	The State of Alaska	November 1, 1965	District No. 31 (Alaska) and the Collector of Customs for said district-November 1, 1965
		Great Falls, Montana	The States of Montana, Idaho, and Wyoming	November 1, 1965	District No. 33 (Montana and Idaho) and the Collector of Customs for said district-November 1, 1965

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
IX Chicago, Illinois, comprising Customs Districts Pembina, Minneapolis, Duluth, Milwaukee, Chicago, Cleveland, St. Louis, and Detroit	March 1, 1966	Pembina, North Dakota	The States of North and South Dakota and the Counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, Pennington in the State of Minnesota	March 1, 1966	District No. 34 (Dakota) and the Collector of Customs for said district-March 1, 1966
		Minneapolis, Minnesota	The State of Minnesota except those counties in the Pembina, North Dakota, and Duluth, Minnesota, districts	March 1, 1966	District No. 35 (Minnesota) and the Collector of Customs for said district-March 1, 1966
		Duluth, Minnesota	The Counties of Koochiching, Itaschi, St. Louis, Carlton, Pine, Lake, Cook, Clay, Aitkin, Norman, Wilkin, Ottertail, Becker, Mahnomen, Clearwater, Hubbard, Wadena, Cass, and Crow Wing in the State of Minnesota and the Counties of Douglas, Bayfield, Ashland, and Iron in the State of Wisconsin, and the Island of Isle Royale in the State of Michigan	March 1, 1966	District No. 36 (Duluth and Superior) and the Collector of Customs for the said district-March 1, 1966
		Milwaukee, Wisconsin	The State of Wisconsin, except the Counties of Douglas, Bayfield, Ashland, and Iron and the County of Menominee in the State of Michigan	March 1, 1966	District No. 37 (Wisconsin) and the Collector of Customs for said district-March 1, 1966
		Chicago, Illinois	The State of Illinois lying north of 39° north latitude; that part of the State of Indiana north of 41° north latitude; and the States of Iowa and Nebraska	March 1, 1966	District No. 39 (Chicago) and the Collector of Customs for said district-March 1, 1966 Comptroller of Customs, District No. 5 and the Comptroller of Customs for said district-March 1, 1966
		Cleveland, Ohio	The States of Ohio, Kentucky, that part of the State of Indiana lying south of 41° north latitude, and the county of Erie in the State of Pennsylvania.	March 1, 1966	District No. 41 (Ohio) and the Collector of Customs for said district-March 1, 1966 District No. 40 (Indiana) and the Collector of Customs for said district-March 1, 1966 District No. 42 (Kentucky) and the Collector of Customs for said district-March 1, 1966

Number, headquarters, and customs districts in region	Effective date of creation of region and office of Regional Commissioner	Name and headquarters of customs districts	Area of District	Effective date of creation of district and office of District Director	Effective date of abolition of existing district and offices of collector, appraiser, and comptroller, as indicated
		St. Louis, Missouri	The States of Missouri and Kansas, and that part of the State of Illinois lying south of 39° north latitude	March 1, 1966	District No. 45 (St. Louis) and the Collector of Customs for said district-March 1, 1966
		Detroit, Michigan	The State of Michigan except the Island of Isle Royale and the County of Menominee, Michigan	March 1, 1966	District No. 38 (Michigan) and the Collector of Customs for said district-March 1, 1966

The actions taken herein shall be effective as 12:01 a.m. of the specified effective dates.

All existing ports of entry and ports of documentation are continued as ports of entry and ports of documentation in the customs districts which embrace them.

The Commissioner of Customs shall take appropriate action to carry out the provisions of section 4 of Reorganization Plan No. 1 of 1965 for (1) the transfer or other disposition of records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, and (2) the winding up of the affairs of the officers whose offices are abolished.

(30 FR 10913, 8/21/64)

HENRY H. FOWLER,
Secretary of the Treasury.

(T.D. 66-25)

Treasury Department Order No. 165-17, Amendment 1

Treasury Department Order No. 165-17, relating to reorganization of the Customs field service, amended

Treasury Department,
Washington, D.C., January 28, 1966

It has been determined that Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913), which created certain customs districts and abolished existing customs-collection districts, effective on the dates specified in said order, should be amended to make certain minor changes in district boundaries and correct a technical error, and that an interim provision is needed for certain territory. Accordingly, pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization Plan No. 26 of 1950 (3 CFR Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), it is hereby ordered that:

1. The description of the area of the district of Tampa, Florida, in Customs Region IV, as it appears in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is changed to read as follows:

The north shore of the St. Marys River and the City of St. Marys, Georgia, and all the State of Florida lying east of the east bank of the Ochlockonee River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade.

2. The description of the area of the district of Mobile, Alabama, in Customs Region V, as it appears in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is changed to read as follows:

The State of Alabama and that part of the State of Mississippi lying south of 31° north latitude, and that part of the State of Florida lying west of the east bank of the Ochlockonee River.

3. The description of the area of the district of Cleveland, Ohio, in Customs Region IX, as it appears in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is changed to read as follows:

The States of Ohio, Kentucky, that part of the State of Indiana lying south of 41° north latitude, and the county of Erie in the State of Pennsylvania.

4. The description of the area of the district of Philadelphia, Pennsylvania, in Customs Region III, as it appears in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is changed to read as follows:

The State of Pennsylvania except for the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.

5. During the period from March 1, 1966, through April 30, 1966, inclusive, the State of Oklahoma shall be a part of the new customs district of St. Louis, Missouri. Thereafter, it will be a part of the customs district of Houston, Texas, as provided in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913).

6. The description of the area of the district of Minneapolis, Minnesota, in Customs Region IX, as it appears in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is corrected to read:

The State of Minnesota except those counties in the Pembina, North Dakota, and Duluth, Minnesota, districts.

(31 FR 1338, 2/3/66)

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

(T.D. 66-89)

Treasury Department Order No. 165-17, Amendment 2

Treasury Department Order No. 165-17, relating to reorganization of the Customs field service, amended

Treasury Department,
Washington, D.C., April 20, 1966.

Pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization Plan No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended. 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is hereby amended by changing from May 1, 1966 to May 15, 1966 the effective date of (1) the creation of Customs Region VI Houston, Texas, (2) the creation of the customs districts in said region, (3) the creation of the office of regional commissioner of customs for said region, (4) the creation of the offices of district director of customs for the districts in said region, (5) the abolition of District No. 21 (Sabine), District No. 22 (Galveston), and District No. 23 (Laredo), and (6) the abolition of the offices of collector of customs for said abolished districts.

The State of Oklahoma shall continue to be a part of the customs district of St. Louis, Missouri, through May 14, 1966. Thereafter it will be a part of the customs district of Houston, Texas, as provided in Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) and this amendment.

(31 FR 6456, 4/28/66)

TRUE DAVIS,
Assistant Secretary of the Treasury.

(T.D. 66-103)

Treasury Department Order No. 165-17, Amendment 2

Treasury Department Order No. 165-17, relating to reorganization of the Customs field service, amended

CORRECTION

Treasury Department,
Washington, D.C., May 12, 1966.

Amendment 2 (T.D. 66-89, 31 F.R. 6456) of Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is hereby corrected, effective May 1, 1966, by changing "(5) the abolition of District No. 21 (Sabine), District No. 22 (Galveston), and District No. 23 (Laredo)," to read as follows: "(5) the abolition of District No. 21 (Sabine), District No. 22 (Galveston), District No. 23 (Laredo), District No. 24 (El Paso), District No. 50 (New Mexico), and District No. 47 (Colorado)."

(31 FR 7150, 5/14/66)

TRUE DAVIS,
Assistant Secretary of the Treasury.

(T.D. 66-116)

Treasury Department Order No. 165-17, Amendment 3

Treasury Department Order No. 165-17, relating to reorganization of the Customs field service, amended

Treasury Department,
Washington, D.C., May 27, 1966.

Pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. II), Treasury Department Order 165-17 (T.D. 56464, 30 F.R. 10913) is hereby amended by changing from June 1, 1966, to June 15, 1966, the effective date of the creation of Customs Region II, New York City, and the effective date of the creation of the new offices and the abolition of existing districts and offices for the territory included in said Region II.

(31 FR 7764, 6/1/66)

TRUE DAVIS,
Assistant Secretary of the Treasury.

(T.D. 66-121)

Treasury Department Order No. 165-17, Amendment 4

Treasury Department Order No. 165-17, relating to reorganization of the Customs field service, amended

Treasury Department,
Washington, D.C., June 3, 1966.

Pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. II), Treasury Department Order 165-17 (T.D. 56464, 30 F.R. 10913) as amended by T.D. 66-116 (31 F.R. 7764) is hereby further amended by changing from June 15, 1966, to June 6, 1966, the effective date of the creation of Customs Region II, New York City, and the effective date of the creation of the new offices and the abolition of existing districts and offices for the territory included in said Region II.

(31 FR 8027, 6/7/66)

TRUE DAVIS,
Assistant Secretary of the Treasury.

(T.D. 71-19)

Treasury Department Order No. 165-17, Amendment 5

Treasury Department Order No. 165-17, relating to reorganization of the Customs Field Service, amended

Treasury Department,
Washington, D.C., January 14, 1971.

In a notice published in the Federal Register on December 8, 1970 (35 F.R. 18599), the Department of the Treasury gave notice of a proposal to create in the Customs district of New York City, New York, three administrative areas, each under the jurisdiction of an area director of customs.

Written representations on behalf of interested parties were received and have been carefully considered. The Department is satisfied that the proposed plan can be implemented without adversely affecting vessel operators, shippers, importers or other parties who conduct business with Customs in the district of New York City, New York.

Accordingly, pursuant to Reorganization Plan No. 1 of 1965 (30 F.R. 7035), Reorganization Plan No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. II), Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913) is hereby amended by creating in the Customs district of New York City, New York, which is coextensive with Customs Region II, New York City, New York, three administrative areas to be designated as Kennedy Airport Area, Newark Area, and New York Seaport Area, each under the jurisdicition of an area director of customs.

The limits of the Kennedy Airport Area are as follows:

Beginning at a point in the Atlantic Ocean at the foot of Beach 95th Street, Rockaway Beach, and proceeding in a northerly direction along the center line of Cross Bay Boulevard and its continuation, Woodhaven Boulevard, to Atlantic Avenue; thence in an easterly direction along the center line of Atlantic Avenue to Van Wyck Expressway; thence in a northerly direction along the center line of Van Wyck Expressway to Hillside Avenue (Route 24); thence in an easterly direction along the center line of Hillside Avenue to 212th Street; thence in a southeasterly direction along the center line of Route 24 (212th Street, Jamaica Avenue, and Hempstead Avenue) to the New York City limits, the boundary line between Queens and Nassau Counties; thence along this boundary line to the Atlantic Ocean, and thence along the shore line to the point of beginning. In addition, La Guardia Airport and U.S. Naval Air Station New York (Floyd Bennett Field) are designated as parts of the Kennedy Airport Area.

The Newark Area shall consist of the counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey, and the county of Richmond in the State of New York.

The New York Seaport Area shall include all that part of the State of New York not expressly included in the Kennedy Airport Area and the Newark Area in the district of New York City and in the districts of Buffalo and Ogdensburg.

This amendment shall become effective on April 1, 1971.

(36 FR 946, 1/20/71)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

(T.D. 56555)

Treasury Department Order No. 165-18

Revocation of Treasury Department Order No. 165-14 which delegated to the Commissioner of Customs certain functions involving Communist political propaganda mail

Treasury Department,
Washington, D.C., December 20, 1965

The Supreme Court of the United States having held in *Lamont v. Postmaster General* and *Fixa v. Heilberg*, 381 U.S. 301 (1965) that section 305 of Public Law 87-793 (39 U.S.C. 4008) in unconstitutional, Treasury Department Order No. 165-14 (T.D. 55796, 28 F.R. 168), which delegated to the Commissioner of Customs the functions vested in the Secretary of the Treasury by section 305 of that law, is hereby revoked.

(30 FR 17174, 12/31/64)

TRUE DAVIS,
Assistant Secretary of the Treasury.

(T.D. 66-3)

Treasury Department Order No. 165-19

Changes of titles of certain officers and changes in designation of certain divisions in the Bureau of Customs

Treasury Department,
Washington, D.C., December 29, 1965.

By virtue or authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Department Order No. 190, Revision 4 (30 F.R. 15769), the following changes are hereby made in the titles of officers and designations of divisions in the Bureau of Customs:

The title of the Assistant Commissioner of Customs is changed to Deputy Commissioner of Customs.

The title of the Deputy Commissioner of Customs, Office of Administration, is changed to Assistant Commissioner of Customs, Office of Administration.

The title of the Deputy Commissioner of Customs, Office of Investigations, is changed to Assistant Commissioner of Customs, Office of Investigations.

The title of the Deputy Commissioner of Customs, Office of Operations, is changed to Assistant Commissioner of Customs, Office of Operations.

The title of the Deputy Commissioner of Customs, Office of Regulations and Rulings is changed to Assistant Commissioner of Customs, Office of Regulations and Rulings.

The designation of the Division of Classification and Drawbacks is changed to Division of Tariff Classification Rulings, and the title of the Deputy Commissioner for said Division is changed to Director, Division of Tariff Classification Rulings.

The designation of the Division of Entry, Value, and Penalties is changed to Division of Entry Procedures and

Penalties and the title of the Deputy Commissioner for said Division is changed to Director, Division of Entry Procedures and Penalties

The designation of the Division of Marine Administration is changed to Division of Marine and Transportation Rulings, and the title of the Deputy Commissioner for said Division is changed to Director, Division of Marine and Transportation Rulings.

The title of the Deputy Commissioner, Division of Technical Services, is changed to Director, Division of Technical Services.

The designation of the Division of Appraisement Administration is changed to Division of Appraisement and Collections, and the title of the Deputy Commissioner for said Division is changed to Director, Division of Appraisement and Collections.

The designation of the Division of Collector's Operations is changed to Division of Inspection and Control and the title of the Deputy Commissioner for said Division is changed to Director, Division of Inspection and Control.

The order shall become effective on January 1, 1966.

(31 FR 228, 1/7/66)

JAMES POMEROY HENDRICK,
Acting Assistant Secretary of the Treasury.

(T.D. 72-41)

Treasury Department Order No. 165-19, Amendment 1

Changes in titles and changes in designation of certain divisions in the Bureau of Customs

Department of the Treasury
Washington, D.C., January 20, 1972.

By virtue of the authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Department Order No. 190, Revision 7 (34 F.R. 15846), the designations of divisions within the Office of Regulations and Rulings and the titles of the Directors of those divisions shall be as follows:

The Division of Classification and Value, under the direct supervision of the Director, Division of Classification and Value.

The Division of Entry Procedures and Penalties, under the direct supervision of the Director, Division of Entry Procedures and Penalties.

The Division of Carriers, Drawback and Bonds, under the direct supervision of the Director, Division of Carriers, Drawback and Bonds.

The Division of Regulations, under the direct supervision of the Director, Division of Regulations.

Treasury Department Order No. 165-19 dated December 29, 1965, is hereby amended to the extent that it is inconsistent with the foregoing.

This order shall be effective on January 31, 1972.

(37 FR 1496, 1/29/72)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

(T.D. 72-320)

Treasury Department Order No. 165-19, Amendment 2

Changes in designation of certain divisions in the Bureau of Customs

Department of the Treasury,
Washington, D.C., November 15, 1972.

By virtue of the authority vested in the Secretary of the Treasury, and pursuant to authorization given to me by Treasury Department Order No. 190, (Revision 8) (September 1, 1972) 37 F.R. 18572 (1972), the following changes are hereby made in the designations of divisions in the Bureau of Customs:

The designation of the Division of Technical Services is changed to Technical Services Division.

The designation of the Division of Appraisement and Collects is changed to Appraisement and Collections Division.

The designation of the Division of Inspection and Control is changed to Inspection and Control Division.

The designation of the Division of Classification and Value is changed to Classification and Value Division.

The designation of the Division of Entry Procedures and Penalties is changed to Entry Procedures and Penalties Division.

The designation of the Division of Carriers, Drawback and Bonds is changed to Carriers, Drawback and Bonds Division.

The designation of the Division of Regulations is changed to Regulations Division.

Treasury Department Order No. 165-19 dated December 29, 1965, (T.D. 66-3, 31 F.R. 228), as amended by T.D. 72-41 (37 F.R. 1496), is hereby amended to the extent that it is inconsistent with the foregoing.

This order shall take effect upon October 1, 1972.

(37 FR 25060, 11/25/72)

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

(T.D. 69-62)

Treasury Department Order No. 165-21 (Revision 1)

Delegation to the Commissioner of Customs of certain functions under the Customs Convention on the International transport of goods under cover of TIR carnets

Treasury Department,
Washington, D.C. February 17, 1969.

(1) By virtue of authority vested in the Secretary of the Treasury by Executive Order No. 11450 dated January 18, 1969 (34 F.R. 919), and pursuant to authorization provided by Treasury Department Order No. 190, Rev. 5 (33 F.R. 5811), the Commissioner of Customs is hereby designated to take all necessary action required of the United States under section 1 of Article 5 of the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) to which the

United States Senate gave its consent on March 1, 1967, and shall exercise his authority hereunder subject to the conditions set forth in section 2 of said Article 5.

(2) Treasury Department Order No. 165-21, differing in text but not is substance, is hereby rescinded.

(34 FR 2616, 2/26/69)

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

(T.D. 69-69)

Treasury Department Order No. 165-22

Rates Fixed for Reimbursable Services of Customs Officers and Employees in The Virgin Islands

Treasury Department,
Washington, D.C., February 26, 1969.

Under authority vested in the Secretary of the Treasury by section 36 of the Act of June 22, 1936, 49 Stat. 1816 (48 U.S.C. 1406i), to fix the compensation of officers and employees appointed for the administration of the customs laws in the Virgin Islands of the United States and pursuant to authorization provided by Treasury Department Order No. 190, Revision 5 (33 F.R. 5811), it is hereby ordered that:

1. The rates of extra compensation fixed under section 5 of the Act of February 13, 1911, 36 Stat. 901, as amended (19 U.S.C. 267), for services for which extra compensation would be payable under the Act or under section 451 of the Tariff Act of 1930, as amended (19 U.S.C. 1451), and the regulations thereunder for services performed in connection with the administration of the customs laws of the United States shall apply to customs officers and employees appointed for the administration of the customs laws in the Virgin Islands of the United States.

2. Payment to customs officers and employees in the Virgin Islands for extra compensation shall be made from the Virgin Island Trust Fund. Collections from parties in interest for extra compensation will be made by the Government of the Virgin Islands under authority of its local laws.

3. The application of the rates fixed under 19 U.S.C. 267 to the Virgin Islands customs officers and employees will be subject to the regulations, decisions, directions for assignment and control of personnel, and the accounting procedures that are applicable to customs officers other than those in the Virgin Islands.

4. This order shall become effective on April 6, 1969, and shall apply to reimbursable services performed on and after that date.

Notices that the action taken by this Order was proposed were published in the Federal Register of July 20, 1967 (32 F.R. 10670, and December 31, 1968 (33 F.R. 20056).

(34 FR 3859, 3/5/69)

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

(T.D. 73-132)

Treasury Department Order No. 165-23

Designation as United States Customs Service

Department of the Treasury,
Washington, D.C., April 4, 1973.

By virtue of the authority vested in me as Secretary of the Treasury, it is hereby ordered that:

1. The Bureau of Customs is designated the United States Customs Service, effective August 1, 1973.

2. As appropriate, all regulations, rules, orders, decisions, forms, and other Customs and Treasury documents are amended to conform to this order but existing supplies of these materials shall continue to be used without change until they are exhausted.

3. No action taken pursuant to this designation shall be invalid by reason of the fact that any statute or regulation provides or indicates that the action should have been taken under a different name.

(38 FR 13037, 5/18/73)

GEORGE P. SCHULTZ,
Secretary of the Treasury.

(T.D. 69-126)

CUSTOMS DELEGATION ORDER NO. 1 (REVISION 1) AMENDED

Performance of functions in the United States Customs Service

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., May 20, 1969.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), as amended, the following officers in the headquarters office of the United States Customs Service are hereby authorized to make decisions and perform functions as follows:

A. Director, Office of Regulations and Rulings. Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended (supra), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, decisions with respect to the application of decisions of the United States Customs Court and the United States Court of Customs and Patent Appeals adverse to the Government, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

The Director, Office of Regulations and Rulings, is authorized to redelegate the authority delegated to him by this Order to appropriate Division Directors and Branch Chiefs in the Office of Regulations and Rulings at Customs Headquarters. **[TDs 72-42, 72-321, 73-293, 77-1, 77-200, 78-111, 79-225, 80-63.]**

(a) *Director, Classification and Value Division:*

(1) Decisions relating to the tariff classification, free and dutiable status of merchandise, including matters arising out of the Tariff Schedules of the United States, the qualification for the free entry of merchandise under section 321, Tariff Act of 1930, as amended, and the Trade Fair Act of 1959; legal aspects of valuation, dumping and countervailing duty determinations and procedures; and authorizations for liquidation or reliquidation of entries in matters relating to the above. **[TDs 72-42, 72-321.]**

(2) Decisions other than those enumerated heretofore in subparagraph (a), in matters arising under provisions of law administered in the Classification and Value Division. **[TDs 72-42, 72-321.]**

(b) *Director, Entry Procedures and Penalties Division:*

(1) Decisions with respect to the legal aspects of the entry of merchandise. **[TDs 72-42, 72-321.]**

(2) Decisions with respect to offers in compromise under 19 U.S.C. 1617, as amended, if recommended by the General Counsel of the Treasury Department. **[TD 73-293, 80-63.]**

(3) All other decisions in matters arising under provisions of law administered in the Entry Procedures and Penalties Division. **[TD 77-200, 80-64.]**

(c) *Director, Carriers, Drawback and Bonds Division:*

(1) Decisions relating to the legal aspects of entry, clearance, use and dutiability of vessels and aircraft, vehicles and other carriers, their equipment and repairs and other maritime activities, connected with the administration of the laws administered by the United States Customs Service. **[TD 72-321.]**

(2) Decisions with respect to the designation of instruments of international traffic and to the legal aspects of control over such instruments. **[TD 75-317.]**

(3) Decisions relating to legal questions about bonds, bonded warehouses, the entry of articles under items 820.40, 820.50 and Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States, and drawback rates and collateral drawback matters.

(4) Decisions, other than those enumerated heretofore in this subparagraph (c), in matters arising under provisions of law administered in the Carriers, Drawback and Bonds Division. **[TD 72-321.]**

B. ASSISTANT COMMISSIONER OF CUSTOMS, OFFICE OF OPERATIONS:

Decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Inspection and Control Division, and the Director, Appraisement and Collections Division. **[TD 72-321.]**

(a) *Director, Inspection and Control Division:* **[TD 72-321.]**

(1) Decisions concerning (i) requests for permission for scheduled aircraft to land elsewhere than at an international airport, and (ii) the establishment and changing of hours of service at ports of entry, stations, and offices.

(2) Decisions, other than those heretofore enumerated in this subparagraph (a), regarding procedural and operational matters relating to the functions administered by the Inspection and Control Division. **[TD 72-321.]**

(b) *Director, Appraisement and Collections Division:* **[TD 72-321.]**

(1) Decisions interpreting and applying factual information concerning matters of value (value decisions, final list, etc.).

(2) Decisions regarding the proper statistical classification of merchandise.

(3) Decisions, other than those heretofore enumerated in this subparagraph (b), regarding procedural and operational matters relating to the functions administered by the Appraisement and Collections Division. **[TD 72-321.]**

2. Each of the officials hereby designated will perform under this authority in his own capacity and under his own title and shall be responsible for referring to the Commissioner of Customs any matter of exceptional importance or which involves some special factor requiring that action be taken by the Commissioner of Customs.

3. The delegations made by this Order relate to decisions to be made and functions to be performed at the headquarters office of the Bureau of Customs, and no such delegation to these officers shall be interpreted as revoking or modifying any delegation made to the Customs field officers.

4. Customs Delegation Order No. 1 (T.D. 53161; 17 F.R. 11705), as amended by T.D. 53694, 19 F.R. 8756; T.D. 53914, 20 F.R. 7554; T.D. 54654, 23 F.R. 5962; T.D. 55431, 26 F.R. 6628; T.D. 55543, 27 F.R. 262; T.D. 55823, 28 F.R. 1267; T.D. 55946, 28 F.R. 7611; T.D. 56262, 29 F.R. 13350; T.D. 56293, 29 F.R. 14860; and T.D. 66-4, 31 F.R. 226, is rescinded. However, all delegations of authority to Customs officers and employees, whether in the headquarters office of the Bureau of Customs in Washington, or in the field, heretofore made in the Customs Regulations of 1943, as amended (19 CFR, Chapter II), or any other regulation, order, or instruction, other than those in Treasury Decisions 52209, 52330, 52331, and 52394 (14 F.R. 2244, 6533, 6534, 15 F.R. 589), heretofore superseded, are continued in effect unless and until otherwise prescribed. Further, all functions which immediately prior to the effective date of Reorganization Plan No. 26 of 1950 (15 F.R. 4935) were vested by law in Customs officers other than the Commissioner of Customs (which have been performed by such officers or by their successors under Reorganization Plan No. 1 of 1965 (3 CFR 1964-1965 Comp.) and under Treasury Order No. 120, dated July 31, 1950 (15 F.R. 6521)), shall continue to be performed by such officers or by their successors unless and until otherwise prescribed.

(34 F.R. 8208, 5/27/69)

LESTER D. JOHNSON,
Commissioner of Customs.

(T.D. 53195)

CUSTOMS DELEGATION ORDER NO. 2

Delegation of authority to certain field officers of the Customs Service to administer oaths and to designate customs officers and employees under their supervision to administer oaths

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., February 4, 1953.

By virtue of the authority vested in me by Treasury Department Order No. 165 (T.D. 53160, 17 F.R. 11705), I hereby authorize all principal field officers of the Customs Service, their chief assistants, and such other customs officers as may be designated in writing by such principal officers, to administer oaths required by law or regulation in respect of any matter coming before them in the performance of their official duties.

(1000000)

FRANK DOW,
Commissioner of Customs.

(T.D. 53242)

CUSTOMS DELEGATION ORDER NO. 3

Delegation of authority to collectors of customs of the several districts to attest certificates of registry

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., April 21, 1953.

By virtue of the authority vested in me by Treasury Department Order No. 165 (T.D. 53160, 17 F.R. 11705), I hereby authorize the collectors of customs of the several districts to perform the function of attesting certificates of registry under seal and by signature heretofore performed by the Commissioner of Customs under the authority of section 4158 of the Revised Statutes of the United States, as amended (46 U.S.C. 28).

(211.13)

D. B. STRUBINGER,
Acting Commissioner of Customs.

(T.D. 53333)

CUSTOMS DELEGATION ORDER NO. 5

Delegation to officers of the Bureau of Customs of authority transferred by the Secretary of the Treasury to the Commissioner of Customs by Treasury Department Order No. 165-1

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., August 13, 1953.

Pursuant to Treasury Department Order No. 165-1, published as T.D. 53332 (18 F.R. 5370), it is hereby ordered:

1. So much for each function trasferred to the Commissioner of Customs by Treasury Department Order No. 165-1 (T.D. 53332; 18 F.R. 5370) as is within the description of any function heretofore delegated by Customs Delegation Order No. 1 (T.D. 53161; 17 F.R. 11705) is hereby delegated to the respective customs officers to which such function was delegated by that order, subject to the pertinent conditions therein prescribed. So much of each function so transferred to the Commissioner of Customs as is within the description of any function covered by a delegation continued in effect by paragraph 3 of Customs Delegation Order No. 1 is hereby delegated to the respective officers and employees who are authorized to perform such function heretofore delegated.

2. There is hereby delegated to all officers of the Customs Service the authority to make seizures of arms or munitions of war and other articles, vessels, vehicles, and aircraft under the Act of August 13, 1953 (67 Stat. 577), amending section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233), as amended (22 U.S.C. 401).

(191.1)

D. B. STRUBINGER,
Acting Commissioner of Customs.

(T.D. 53369)

CUSTOMS DELEGATION ORDER NO. 6

Delegation to collectors of customs of authority transferred by the Secretary of the Treasury to the Commissioner of Customs by Treasury Department Order No. 165-2

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., October 29, 1953.

Pursuant to Treasury Department Order No. 165-2, published as T.D. 53368, it is hereby ordered:

The functions of refunding excess deposits of internal-revenue tax, collected by collectors of customs, and of determining, allowing, and paying interest in connection with such refunds, transferred to the Commissioner of Customs by Treasury Department Order No. 165-2, are hereby delegated to collectors of customs.

(142.56)

D. B. STRUBINGER,
Acting Commissioner of Customs.

(T.D. 53511)

Customs Delegation Order No. 7

Order of the Commissioner of Customs establishing the office of the surveyor of customs at New York, New York, as a division in the office of the collector of customs at that port

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., June 15, 1954

By virtue of the authority vested in me by Treasury Department Order No. 165 (T.D. 53160, 17 F.R. 11705), I hereby establish the office, staff, and equipment of the surveyor of customs at New York, N.Y., as the office, staff, and equipment of a division of the office of the collector of customs at that port, the said surveyor to administer that division under the immediate direction of the collector of customs; and I hereby transfer from the said surveyor to the said collector such authority and functions vested in the said surveyor by Customs Delegation Order No. 1 (T.D. 53161, 17 F.R. 11706) as served to maintain the office of the surveyor as an administrative unit separate from and outside the organization of the collector of customs.

(191.1)

RALPH KELLY,
Commissioner of Customs.

(T.D. 54430)

Customs Delegation Order No. 12

Transfer from appraisers of merchandise to collectors of customs of the function of determining the values of merchandise unclaimed and abandoned to the Government where the appraised value of the lot is not in excess of $250

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., September 6, 1957.

By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), I hereby transfer from the appraisers of merchandise to the collectors of customs the function of determining the appraised value under section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1402), and the actual domestic value in its condition at the time and place of examination, of any unclaimed merchandise abandoned to the Government, where the aggregate appraised value of the lot as determined by the collector is not in excess of $250.

RALPH KELLY,
Commissioner of Customs.

(T.D. 55463)

Customs Delegation Order No. 17

Delegation to collectors of customs of authority transferred by the Secretary of the Treasury to the Commissioner of Customs by Treasury Department Order No. 165-12

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., August 31, 1961.

Pursuant to Treasury Department Order No. 165-12 published as T.D. 55460, it is hereby ordered:

The function of collecting deposits of internal revenue tax on imported tobacco materials, tobacco products, and cigarette papers and tubes, delegated to the Commissioner of Customs by Treasury Department Order No. 165-12 is hereby delegated to collectors of customs, and:

The provisions of Customs Delegation Order No. 6 of October 29, 1953, published as T.D. 53369 (18 F.R. 7177), shall apply to excess deposits of such taxes collected by collectors of customs.

(26 F.R. 8400)

D. B. STRUBINGER,
Acting Commissioner of Customs.

(T.D. 55917)

Customs Delegation Order No. 20

The function of determining the value of vessels, vehicles, merchandise or baggage seized under the customs laws transferred from the appraisers of merchandise to the collectors of customs if the value does not exceed $500, and to the officers of the Customs Agency Service in certain cases where the value does not exceed $100.

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., June 10, 1963.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), I hereby transfer from the appraisers of merchandise to the collectors of customs the function under section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) of determining the domestic value, at the time and place of appraisement, of any vessel, vehicle, merchandise, or baggage seized under the customs laws, in any case where the aggregate value of the seizure does not exceed $500.

I also authorize the supervising customs agents, or other officers of the Customs Agency Service designated by them, to perform said function in any case where the aggregate value of the seizure does not exceed $100 and the seizure was made by an officer of the Customs Agency Service.

This order supersedes Customs Delegation Order No. 15, dated September 24, 1959 (T.D. 54949, 24 F.R. 7968).

(28 F.R. 6235)

PHILIP NICHOLS, Jr.,
Commissioner of Customs.

(T.D. 56470)

Customs Delegation Order No. 22

Order of the Commissioner of Customs delegating functions, rights, privileges, powers, and duties to customs field officers

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., August 24, 1965.

By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), there are hereby delegated to district directors of customs and to regional commissioners of customs all functions, rights, privileges, powers, and duties now vested in collectors of customs and all those now vested in appraisers of merchandise, effective on the dates that the creation of said offices of district directors and regional commissioners become effective under Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913).

(30 F.R. 11180, 8/31/65)

LESTER D. JOHNSON,
Commissioner of Customs.

(T.D. 67-7)

Customs Delegation Order No. 28

Order of the Commissioner of Customs delegating functions, rights, privileges, powers, and duties to Port Directors

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., December 7, 1966.

By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), all functions, rights, privileges, powers, and duties delegated to district directors of customs and to regional commissioners of customs by Customs Delegation Order No. 22 (T.D. 56470, 30 F.R. 11180) and delegated to the assistant regional commissioners and deputy regional commissioner for Customs Region II, New York City, New York, by Customs Delegation Orders No. 23 (T.D. 66-100, 31 F.R. 7150) and No. 24 (T.D. 66-113, 31 F.R. 7842), respectively, are hereby delegated also to port directors.

Ordinarily each Port Director will exercise the authority delegated herein only where statute, regulation, or instruction contemplates that the Port Director should take action at the port over which he has supervision.

This delegation is effective as of the date of the creation of the several regions in which the ports are located.

(31 FR 16581, 12/28/66)

EDWIN F. RAINS,
Acting Commissioner of Customs.

(T.D. 76-94)

Customs Delegation Order No. 34 (Revision 2)

Delegation of Authority to Waive Claims for Erroneous Payments of Pay and Allowances to Employees

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., March 25, 1976

1. By virtue of the authority vested in me as Commissioner of Customs by Treasury Department Order No. 214 (Revision 2), dated August 19, 1974 (39 FR 30509), I hereby delegate to the Assistant Commissioner, Office of Administration, insofar as employees in the Headquarters, U.S. Customs Service, are concerned, and to Regional Commissioners of Customs, insofar as employees in their regions are concerned, the authority of the Secretary of the Treasury under 5 U.S.C. 5584, and the regulations of the Comptroller General in 4 CFR Parts 91-93, 37 FR 26095, December 8, 1972, to waive in whole or in part erroneous payments of pay and allowances, other than travel and transportation expenses and relocation expenses, to Treasury employees aggregating not more than $500 in conformity with the limitations and standards set forth in the aforesaid provision of law and regulations.

2. Customs Delegation Order No. 34 (Revision 1), dated July 18, 1973 (T.D. 73-202, 38 FR 19916) is hereby rescinded.

3. This order shall take effect upon publication in the Federal Register.

(41 FR 13380, 3/30/76)

G. R. DICKERSON,
Acting Commissioner of Customs.

(T.D. 70-193)

Customs Delegation Order No. 37

Order of the Commissioner of Customs transferring the functions under Public Law No. 362—84th Congress—1st Session, to agents of the Customs Agency Service

Treasury Department,
Office of the Commissioner of Customs,
Washington, D.C., September 1, 1970.

Under the authority conferred upon me by Treasury Department Order No. 165-5, dated October 17, 1956 (T.D. 54222, 21 F.R. 8242), the functions under Public Law No. 362—84th Congress—1st Session (Act of August 11, 1955, 21 U.S.C. 198a, 198b, 198c), are hereby transferred as follows:

1. All of the said functions are transferred to special agents in charge of the Bureau of Customs;

2. All of the said functions, except the authority to issue subpoenas, are transferred to senior resident special agents, resident special agents, and special agents of the Bureau of Customs.

This order supersedes Customs Delegation Order No. 10, dated October 19, 1956 (T.D. 54223, 21 F.R. 8242).

(35 FR 14223, 9/9/70)

MYLES J. AMBROSE,
Commissioner of Customs.

(T.D. 71-61)

Customs Delegation Order No. 40

Order of the Commissioner of Customs delegating functions, rights, privileges, powers, and duties to area directors in the Customs district of New York City, New York.

Department of the Treasury
Office of the Commissioner of Customs,
Washington, D.C., February 18, 1971.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), all functions, rights, privileges, powers, and duties delegated to district directors of customs and to regional commissioners of customs by Customs Delegation Order No. 22 (T.D. 56470, 30 F.R. 11180) are hereby delegated also to area directors of customs for the Customs district of New York City, New York, effective on April 1, 1971.

This order supersedes Customs Delegation Orders No. 23 (T.D. 66-100, 31 F.R. 7150) and No. 24 (T.D. 66-113, 31 F.R. 7842).

(36 FR 3830, 2/27/71)

MYLES J. AMBROSE,
Commissioner of Customs.

(T.D. 73-163)

Customs Delegation Order No. 46

Designation of the Assistant Commissioner, Office of Administration, Bureau of Customs, and the Director, Facilities Management Division, Office of Administration, Bureau of Customs, as contracting officers to enter into certain contracts

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., June 12, 1973.

1. By virtue of authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), and by Treasury Department Order No. 208, (Revision 1), dated July 17, 1972 (37 F.R. 14419), I hereby designate the Assistant Commissioner, Office of Administration, Bureau of Customs, and the Director, Facilities Management Division, Office of Administration, Bureau of Customs, as contracting officers with authority to enter into and administer contracts for the acquisition of land and the construction of Customs border facilities provided for in section 1 and section 2 of the Act of June 26, 1930, as amended (19 U.S.C. 68, 69); the lease of real property; and the procurement of personal property and nonpersonal services (including construction).

2. This delegation is subject to the requirements and limitations of Treasury Department Order No. 208 (Revision 1), dated July 17, 1972, and shall be exercised in accordance with the requirements and limitations of Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. chapter 4) as well as the applicable Federal Procurement Regulations, 41 CFR, chapters 1 and 10.

3. Subject to the requirements and limitations of paragraph 2 above, the authority herein delegated may be redelegated by the Assistant Commissioner, Office of Administration, Bureau of Customs, or the Director, Facilities Management Division, Office of Administration, Bureau of Customs, to other officers or employees of the Customs Service in such manner as they shall direct.

4. Any action heretofore taken by the Assistant Commissioner, Office of Administration, Bureau of Customs, or the Director, Facilities Management Division, Office of Administration, Bureau of Customs, which involved the exercise of authority hereby granted is affirmed and ratified.

5. This order supersedes Customs Delegation Order No. 36, dated July 22, 1970 (T.D. 70-168, 35 F.R. 12079).

(38 FR 15857, 6/18/73)

VERNON D. ACREE,
Commissioner of Customs.

(T.D. 75-192)

Customs Delegation Order No. 46; AMENDMENT 1

Customs Delegation Order No. 46, relating to Designation of Contracting Officers, amended

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., July 23, 1975.

Customs Delegation Order No. 46 (T.D. 73-163, 38 F.R. 15857) designated the Assistant Commissioner, Office of Administration, U.S. Customs Service, and the Director, Facilities Management Division, Office of Administration, U.S. Customs Service, as contracting officers to enter into certain contracts.

In order to reflect the recent reorganization in the Office of Administration, Customs Delegation Order No. 46 is amended by substituting for Director, Facilities Management Division, Office of Administration, the new title, Director, Logistics Management Division, Office of Administration.

(40 FR 32361, 8/1/75)

G. R. DICKERSON,
Acting Commissioner of Customs.

(T.D. 73-302)

Customs Delegation Order No. 48

Order of the Commissioner of Customs delegating and revoking certain authority to field officers

Department of the Treasury,
Office of the Commission of Customs,
Washington, D.C., October 26, 1973.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), as amended:

(1) I hereby delegate to the following officers and such other officers as may be designated by them in writing the authority to designate persons as indicated below as Customs officers (excepted) without additional compensation, in accordance with guidelines issued by Headquarters, U.S. Customs Service:

a. Regional Commissioners and District Directors of Customs may designate persons within their respective jurisdictions as Customs Inspectors (excepted), Customs Patrol Officers (excepted) or Customs Warehouse Officers (excepted) and may revoke designations;

b. The Directors, Inspection and Control Division and Patrol Division, Headquarters, Office of Operations, may designate persons as Customs Officers (excepted), Customs Inspectors (excepted), Customs Patrol Officers (excepted), or Customs Warehouse Officers (excepted), and may revoke designations; **[TD 74-78]**

(2) Any action heretofore taken by the foregoing officers which involved the designation of persons as Customs Officers (excepted) without additional compensation is affirmed and ratified. Such designations shall remain valid for a period of 6 months from the date of this delegation order unless sooner revoked or reissued by any of the individuals delegated authority in paragraph one, above.

(3) The authority delegated to Special Agents In Charge by Customs Delegation Orders No. 42 (T.D. 71-181, 36 F.R. 13410) and 45 (T.D. 73-47, 38 F.R. 4000) is hereby revoked and those delegation orders are superseded. All designations made under those delegation orders shall continue in force for a period of 6 months from the date of this delegation order unless sooner revoked or reissued by any of the individuals delegated authority in paragraph one, above.

(38 FR 30455, 11/5/73)

VERNON D. ACREE,
Commissioner of Customs.

(T.D. 75-231)

Customs Delegation Order No. 50

Order of the Commissioner of Customs, delegating certain authority to the Deputy Commissioner of Customs and the Assistant Commissioners of Customs

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., September 12, 1975.

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, I hereby delegate to each Assistant Commissioner of Customs the authority to prescribe instructions, and amendments thereto, which are published in the Customs Manual for the guidance of officers, agents, and employees of the Customs Service, and which pertain solely to those Customs Service functions for which he has direct responsibility. For those Customs Manual instructions, and amendments thereto, which pertain to functional areas which are not solely the responsibility of one Assistant Commissioner of Custom, I hereby delegate the authority to prescribe such instructions, and amendments thereto, to the Deputy Commissioner of Customs. These delegations of authority will become effective on the date of publication in the Federal Register.

(40 FR 43235, 9/19/75)

VERNON D. ACREE,
Commissioner of Customs.

(T.D. 75-253)

Customs Delegation Order No. 51

Order of the Commissioner of Customs delegating authority with respect to the sale of Customs forms to the Assistant Commissioner, Office of Administration

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., October 6, 1975.

By virtue of the authority vested in me by Treasury Department Order No. 165, revised (T.D. 53654, 19 FR 7241), as amended, I hereby delegate to the Assistant Commissioner, Office of Administration, the authority to designate those Customs forms which shall be for sale to the general public, to establish the price of each salable Customs form, and to periodically adjust the price of such forms as the varying costs of printing and distribution require.

This Delegation Order shall take effect upon publication in the Federal Register.

(40 FR 47806, 10/10/75)

VERNON D. ACREE,
Commissioner of Customs.

(T.D. 76-53)

Customs Delegation Order No. 54

Order of the Commissioner of Customs delegating authority, with respect to the withholding from compensation due Customs employees any amounts erroneously paid such employees, to the Regional Commissioners and the Assistant Commissioner, Office of Administration

Department of the Treasury,
Office of the Commissioner of Customs,
Washington, D.C., February 19, 1976.

By virtue of the authority vested in me by 5 U.S.C. 5514, and by Treasury Department Circular No. 871, First Supplement, dated November 12, 1954, I hereby delegate to the Assistant Commissioner, Office of Administration, insofar as employees in the Customs Service headquarters are concerned, and to the Regional Commissioners of Customs, insofar as employees in their regions are concerned, the authority to withhold from compensation due Customs employees any amounts erroneously paid such employees. The deduction shall be in accordance with the provisions of 5 U.S.C. 5514 and Treasury Department Circular No. 871, First Supplement, dated November 12, 1954.

This order shall take effect upon publication in the Federal Register.

(41 FR 8508, 2/27/76)

VERNON D. ACREE,
Commissioner of Customs.

(T.D. 79-10)

Customs Delegation Order Number 55

By virtue of the authority granted to me by Treasury Department order No. 165, revised (T.D. 53654, 19 F.R. 7241), as amended, I delegate to the following specified officers of the Customs Service the functions, rights, privileges, powers, and duties under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), to

(a) Summon, upon reasonable notice,
  (1) Any person involved in the importation of merchandise,
  (2) Any person who has possession, custody, or care of relevant records, or
  (3) Any other person deemed proper,
(b) Require the production of records,
(c) Examine records, and
(d) Take testimony under oath

in order to determine the correctness of an entry, the liability of any person for duties and taxes, or the amount of fines and penalties or to insure compliance with applicable laws and regulations administered by the Customs Service:

Assistant Commissioner (Investigations)
Regional directors of investigations
Assistant regional directors of investigations
Customs attaches
Senior Customs representatives
Special agents in charge
Regional commissioners
Assistant regional commissioners of operations
District directors
Area directors
Assistant Commissioner (Internal Affairs)
Headquarters directors, Internal Security Division, Office of Internal Affairs
Regional directors of internal affairs

This order supersedes Customs delegation order No. 49, dated May 9, 1975 (T.D. 75-111, 40 F.R. 22007).

Dated: January 4, 1979.

R. E. Chasen,
Commissioner of Customs.

(T.D. 79-137)

Customs Delegation Order No. 56

Order of the Commissioner of Customs delegating authority, with respect to functions under sections 1061 and 1102 of the Currency and Foreign Transactions Reporting Act, to certain Customs officers.

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., May 7, 1979

By virtue of the authority vested in me by Treasury Department Order No. 130-1, dated April 11, 1979 (T.D. 79-136), I hereby delegate to the following specified officers of the Customs Service, subject to guidelines and procedures which have been approved by the Assistant Secretary of the Treasury (Enforcement and Operations), the functions, rights, privileges, powers, and duties of the Secretary of the Treasury under sections 1061 and 1102 of the "Currency and Foreign Transactions Reporting Act" (31 U.S.C. 1061, 1102):

1. The Assistant Commissioner (Investigations) is hereby delegated the authority to disseminate copies of reports required under the provisions of the Department of the Treasury regulations issued to implement 31 U.S.C. 1061.

2. District and area directors of Customs are hereby delegated the authority to act on petitions to remit or mitigate forfeitures of currency or other monetary instruments not in excess of $25,000 seized under 31 U.S.C. 1102.

3. Regional commissioners of Customs are hereby delegated the authority to act on supplemental petitions for relief from decisions of district and area directors of Customs in connection with the remission or mitigation of forfeitures of currency or other monetary instruments not in excess of $25,000 seized under 31 U.S.C. 1102.

4. The Director, Entry Procedures and Penalties Office of Regulations and Rulings, is hereby delegated the authority to act on petitions to remit or mitigate forfeitures of currency or other monetary instruments in excess of $25,000, but not in excess of $100,000, seized under 31 U.S.C. 1102.

5. The Deputy Assistant Commissioner (Regulations and Rulings) is hereby delegated the authority to act on supplemental petitions for relief from decisions of the Director, Entry Procedures and Penalties Division, in connection with the remission or mitigation of forfeitures of currency or other monetary instruments in excess of $25,000, but not in excess of $100,000, seized under 31 U.S.C. 1102.

R.E. CHASEN
Commissioner of Customs

(T.D. 79-198)

Customs Delegation Order No. 57

Order of the Commissioner of Customs delegating authority under the Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240-242, to certain Customs officers.

By virtue of the authority vested in me by Treasury Department Order No. 177-22, Revision 2 (34 F.R. 156), I hereby delegate to Regional Commissioners of Customs the authority to settle and pay claims not in excess of

$15,000 arising under 31 U.S.C. 240-242 made by an employee of the U.S. Customs Service for damage to, or loss of, personal property incident to his service, when there is no doubtful question of law or fact.

The payment of claims pursuant to this delegation shall be in accordance with regulations issued by the Department of the Treasury (31 CFR Part 4).

This order supersedes Customs Delegation Order No. 30, T.D. 67-103 (32 F.R. 6373).

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., July 17, 1979.
R.E. CHASEN
Commissioner of Customs.

(T.D. 79-199)

Customs Delegation Order No. 58

Order of the Commissioner of Customs delegating authority under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. to certain Customs officers.

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., July 17, 1979.

By virtue of the authority vested in me by Treasury Department Order No. 145, Revision 3 (32 F.R. 3066), I hereby delegate to the Regional Commissioner of Customs the authority to consider, ascertain, adjust, determine, deny, or settle and pay claims not in excess of $25,000 arising under 28 U.S.C. 2672 by reason of the negligent or wrongful act or omission of any employee of the Customs Service.

This order supersedes Customs Delegation Order No. 53 dated February 11, 1976 (T.D. 76-47, 41 F.R. 7551)

R.E. CHASEN
Commissioner of Customs

(T.D. 80-64)

Customs Delegation Order No. 59

Delegation of authority with respect to initial decisions under 5 U.S.C. 552 and 5 U.S.C. 552a

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., February 4, 1980.

Paragraph A.(b)(3) of Customs Delegation Order No. 1 (Revision 1), amended (T.D. 69-26, 34 F.R. 8208), delegates to the Director, Entry Procedures and Penalties Division, the authority to make decisions denying or approving requests for information under 5 U.S.C. 552 and requests for amendment of records under 5 U.S.C. 552a. To reflect a reassignment of functions and staff at Customs Service Headquarters, Paragraph A.(b)(3) of Customs Delegation Order No. 1 (Revision 1), amended, is hereby rescinded, Paragraph A.(b)(4) of that Order is redesignated Paragraph A.(b)(3), and the following delegation is made:

By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241) as amended, the authority to approve or deny initial requests with respect to records in their custody under 5 U.S.C. 552 and 5 U.S.C. 552a is hereby delegated to the various division directors at Customs Service Headquarters, unless the request relates to records which are in the custody of an office which is not within a division. In that event, the authority to approve or deny the initial request is hereby delegated to the individual designated for that purpose by the Assistant Commissioner or Comptroller, as appropriate, having responsibility for the custodian officer.

The delegation of authority is effective (10 days from the date of publication of this notice in the Federal Register).

WILLIAM T. ARCHEY
Acting Commissioner of Customs

(T.D. 80-75)

Customs Delegation Order No. 60

Order of Commissioner of Customs establishing an order of succession of persons to act as Commissioner of Customs

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., February 7, 1980.

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 F.R. 2875), it is hereby ordered that the following officers of the U.S. Customs Service, in the order of succession enumerated, shall act as Commissioner of Customs, in the event of an enemy attack or during the absence or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs.
2. The Assistant Commissioner (Border Operations).
3. Comptroller.
4. The Assistant Commissioner (Commercial Op.).
5. Assistant Commissioner (Management Integrity).

By virtue of the authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654; 19 F.R. 7241), there is hereby delegated to the regional commissioner of Customs, district directors of Customs, and port directors of Customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 52, dated October 10, 1975 (T.D. 75-260; 40 F.R. 48701).

R.E. CHASEN
Commissioner of Customs.

(T.D. 80-239)

Customs Delegation Order No. 61

Order of the Commissioner of Customs delegating authority under the Federal Claims Collection Act of 1966, 31 U.S.C. 951, et seq., to certain Customs officers.

Treasury Department
Office of the Commissioner of Customs
Washington, D.C., September 15, 1980

By virtue of the authority vested in me by 31 CFR 5.2, I hereby delegate to the Regional Commissioners of Customs my authority pursuant to the Federal Claims Collection Act of 1966, 31 U.S.C. 951, et seq., to suspend or terminate collection actions on claims which do not exceed $20,000 exclusive of interest. The suspension or termination of collection actions pursuant to this delegation shall be made upon the recommendation of the Regional Counsel for any claim, in which the unpaid amount of the debt is more than $100, in conformity with 31 CFR 5.3, and shall be in accordance with regulations issued jointly by the Department of Justice and General Accounting Office (4 CFR 104.2, 104.3).

WILLIAM T. ARCHEY
Acting Commissioner of Customs

(T.D. 81-8)

Customs Delegation Order No. 62

Order establishing an Order of Succession of Persons to Act as Commissioner of Customs

January 6, 1981

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 FR 2875). It is hereby ordered that the following officers of the U.S. Customs Service in the order of succession enumerated, shall act as Commissioner of Customs, in the event of an enemy attack or during the absence or disability of the Commissioner of Customs, or when there is a vacancy in such office:

1. The Deputy Commissioner of Customs.
2. The Assistant Commissioner (Border Operations).
3. The Assistant Commissioner (Commercial Operations).
4. Comptroller.
5. Assistant Commissioner (Management Integrity)

By virtue of authority vested in me by said Treasury Department Order No. 129 (Revision No. 2), and Treasury Department Order No. 165, Revised (T.D. 53654; 19 FR 7241), there is hereby delegated to the regional commissioners of Customs, district directors of Customs, and port directors of Customs, in the event of an enemy attack on the continental United States, authority to perform any function of the Commissioner of Customs which is necessary to insure continuous performance of essential functions otherwise assigned to such officers. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

This order supersedes Customs Delegation Order No. 60, dated February 7, 1980 (T.D. 80-75).

WILLIAM T. ARCHEY
Acting Commissioner of Customs

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Authority: R.S. 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, 46 U.S.C. 2, 3 General Hdnote 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14596, Dec. 31, 1963, unless otherwise noted.

Note 1: By T.D. 528886, 16 FR 12763, Dec. 20, 1951, the Commissioner of Customs waived compliance with the provisions of the navigation laws administered by the United States Customs Service to the extent necessary to permit the operation of vessels requisitioned by the United States for emergency evaluation.

Note 2: By Treasury Decision 53449, 19 FR 1420, Mar. 13, 1954, the Commissioner of Customs waived compliance with the navigation laws relating to clearances of vessels to the extent necessary to permit:

(1) The clearance for an unnamed destination of any vessel owned by, Government-allocated to, or chartered by the Military Sea Transportation Service of the Department of Defense, other than those used on berthterm (shipping contract or Government bill-of-lading) arrangements, which is certified by the Commander of the Military Sea Transportation Service or his duly authorized representative as (a) in ballast or laden only with Department of Defense cargo, or (b) having on board passengers, each of whom is either a member of the Armed Forces or a civilian noncombatant employed by, serving with, or accompanying the Armed Forces of the United States;

(2) The clearance of any vessel with Department of Defense cargo on the basis of a manifest which describes that cargo only as "———————————— (Approximate quantity) of Department of Defense cargo."

Note 3: By Treasury Decision 53892, 20 FR 6792, Sept. 15, 1955, the Commissioner of Customs waived compliance with sections 289, 292, 316, and 883, title 46, United States Code, to the extent necessary to permit any dredge, tug, scow, barge, or other vessel of Canadian registry or flag, whether or not Canadian-built, to be employed in dredging, towing, the transportation of merchandise or passengers, or any combination of such activities, in spoil disposal operations or channel excavations for power purposes and in connection with the construction of the Iroquois Control Dam as a part of the St. Lawrence Power Project in territorial waters of the United States within the general areas (1) between points opposite Prescott, Ontario, and Doran Island and (2) between points opposite the powerhouse structure and the eastern end of Cornwall Island.

Note 4: By Treasury Decision 54230, 21 FR 8355, Nov. 1, 1956, the Commissioner of Customs waived compliance with sections 289, 292, 316, and 883, title 46, United States Code, to the extent necessary to permit any dredge, tug, scow, barge, or other vessel of Canadian registry or flag, whether or not Canadian-built, to be employed in dredging, towing, the transportation of merchandise or passengers, or any combination of such activities, in connection with the construction of the proposed high level Cornwall South Channel Bridge of the St. Lawrence Seaway Navigation Project in the general area of Massena and Rooseveltown, New York.

Arrival and Entry of Vessels

§ 4.0 General definitions.

For the purposes of this part:

(a) The word "vessel" includes every description of water craft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. (19 U.S.C. 1401.) **[TD 69-266.]**

(b) The term "vessel of the United States" means any vessel documented under the laws of the United States.

(c) The term "documented" means registered, enrolled and licensed, or licensed by the U.S. Coast Guard.

(d) The term "noncontiguous territory of the United States" includes all the island territories and possessions of the United States, but does not include the Canal Zone.

(e) The word "citizen" is as defined by the U.S. Coast Guard for purposes of vessel documentation (see Subpart 67.03 of Title 46, Code of Federal Regulations.)

§ 4.1 Boarding of vessels; cutter and dock passes.

(a) When any vessel which might have on board any article subject to Customs treatment comes within the limits of any port of entry or within Customs waters, Customs officers may board the vessel to inspect its manifest and other documents and papers and to examine, inspect, and search the vessel and the persons and articles on board.[1] **[TD 53399.]**

(b) Every vessel arriving within a Customs district directly from a point outside the Customs territory of the United States shall be boarded and shall be subject to such supervision while in port as the district director deems necessary. When he deems it desirable, the district director may detail Customs officers to remain on board a vessel to secure the enforcement of this part. Except as provided in paragraph (a) of this section, boarding of a vessel arriving from another port in the United States with residue cargo, passengers, or baggage on board shall not be required unless preliminary entry is requested. **[TDs 47959, 53336, 54232.]**

(c)(1) No person, with or without the consent of the master, except a pilot in connection with the navigation of the vessel, personnel from another vessel in connection with the navigation of an unmanned barge, an officer of Customs or the Coast Guard, an immigration or health officer, an inspector of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, or an agent of the vessel or consular officer exclusively for purposes relating to Customs formalities, shall go on board any vessel arriving from outside the Customs territory of the United States without permission of the district director or the Customs officer in charge until the vessel has been taken charge by a Customs officer. **[TDs 22293, 50575, 51049, 51172, 78-141]**

(2) A person may leave the vessel for the purpose of reporting its arrival as required by law (see section 4.2), but no other person, except those designated in paragraph (c)(1) of this section, shall leave any vessel arriving from outside the Customs territory of the United States, with or without the consent of the master, without the permission of the district director of Customs or the Customs officer in charge until the vessel has been properly inspected by Customs and brought into the dock or an-

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[1] "Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters * * * and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance." (19 U.S.C. 1581(a))

"If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United States, he shall for every such offense be liable to a penalty of not more than $2,000 nor less than $500." (R.S. 3068, sec. 307, 49 Stat. 528) chorage at which cargo is to be unladen and until all passengers have been landed from the vessel.[2]

(3) Every person permitted to go on board or to leave without the consent of a Customs officer under the provisions of this paragraph shall be subject to Customs and quarantine regulations.

(4) The master of any vessel shall not authorize the boarding or leaving of his vessel by any person in violation of this paragraph.

(d) A district director, in his discretion may issue a cutter pass on Customs Form 3093 to permit the holder to board an incoming vessel after it has been inspected by the quarantine authorities and taken in charge by an officer of the Customs, as follows: (1) To persons on official business; (2) to news reporters, newspaper photographers, photographers of established motion-picture companies, and broadcasters of established radio broadcasting companies; and (3) in cases of special exigency in which the district director is satisfied as to the urgent need for the boarding and that its allowance will not result in undue interference with the performance of official business. **[TD 51575, 53816]**

(e) No person in charge of a tugboat, rowboat, or other vessel shall bring such conveyance alongside an incoming vessel heretofore described and put on board thereof any person, except as authorized by law or regulations.

(f) Upon application on Customs Form 3137 or in other suitable manner, a district director may, in his discretion, issue a pass on Customs Form 3095 to go on the dock to meet persons arriving from abroad.

(g) Term cutter and dock passes, for a period of not to exceed one year, may be issued in the discretion of the district director, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferable and shall be forfeited upon presentation by others than those to whom issued. (Sec. 9, 22 Stat. 189, as amended, secs. 1–3, 31 Stat. 58, as amended; 46 U.S.C. 158, 163) **[TD 53816.]**

§ 4.2 Reports of arrival of vessels.

(a) The report of arrival required by section 433, Tariff Act of 1930,[3] shall be made by any means of communication to the district director or to a Customs officer assigned to board the vessel. **[BMIN/BM 212, 3/16/39.]**

(b) For the purposes of this part, the time of arrival of a vessel shall be that time when she first comes to rest, whether at anchor or at a dock, in any harbor within the Customs territory of the United States. **[BMIN/BM 184, 10/12/38]**

(c) In the case of a vessel described in section 441(3), Tariff Act of 1930, as amended,[4] the report of articles subject to entry shall be made in accordance with the provisions of Subpart B of Part 148 of this chapter to the Customs officer assigned to board the vessel. (See § 4.1(c).) **[TDs 53606, 73-27]**

(d) In the case of vessels described in section 441(4), Tariff Act of 1930, as amended,[4] the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute, except that the report need not be under oath. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival. **[TDs 6603, 53336]**

(e) The report of baggage and merchandise on a vessel within the purview of section 441(2), Tariff Act of 1930, as amended,[4] shall be made as provided for in that section and shall be in addition to the required report of arrival. (Secs. 433, 441, 486, 46 Stat. 711, 712, as amended, 725, as amended; 19 U.S.C. 1433, 1441, 1486)

§ 4.3 Vessels required to enter.

(a) Except as specified in section 441, Tariff Act of 1930, as amended,[5] R.S. 2792,[7] R.S. 2793, as amended,[6]

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[2] "It shall not be lawful for the master of any such steamship or other vessel,[*] not in distress, after the arrival of the vessel within any collection district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, agents of the vessel and consuls, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers, with their baggage, have been duly landed from the vessel. * * *" (46 U.S.C. 158)

"The Secretary of the Treasury is authorized and directed to prescribe from time to time and enforce regulations governing the boarding of vessels arriving at the seaports of the United States, before such vessels have been properly inspected and placed in security, and for that purpose to employ any of the officers of that department. Each person violating such regulations shall be subject to a penalty of not more than $100 or imprisonment not to exceed six months, or both, in the discretion of the court. This section shall be construed as supplementary to section 158 and section 708 of this title." (46 U.S.C. 163 Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

"Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than $200 or imprisoned not more than six months, or both.

"The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law." (18 U.S.C. 2279)

"If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than $50, or by imprisonment for not more than three months. This section shall apply to vessels of the United States engaged in the foreign trade and to foreign vessels." (46 U.S.C. 709)

[*] A vessel from a noncontiguous foreign place carrying steerage passengers.

[3] "Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 433; 19 U.S.C. 1433)

"* * * For the purposes of sections 432, 433, 434, 448, 585, and 586 of this Act, any vessel which has visited any hovering vessel shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place." (Tariff Act of 1930, sec. 401(n), as amended; 19 U.S.C. 1432a)

"The term 'hovering vessel' means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue * * *." (Tariff Act of 1930, sec. 401(n), as amended; 19 U.S.C. 1401(n))

"Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each offense, be liable to a fine of not more than $1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more $2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. * * *" (Tariff Act of 1930, sec. 436, as amended; 19 U.S.C. 1436)

"Report of the arrival of a vessel of less than 5 net tons in the United States from a contiguous country otherwise than by sea is not required by section 433, Tariff Act of 1930. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter."

[4] See footnote 5 to § 4.3.

[5] "The following vessels shall not be required to make entry at the customhouse:

"(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

"(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel

[Footnotes continued on next page]

or as otherwise specified in this part,[8a] every American vessel arriving in the United States from a foreign port or place and every foreign vessel[9] arriving at a port in the United States from another such port or from a foreign port or place shall make entry[10] at the customhouse within 48 hours after arrival.[11] **[TDs 47192, 47843, 50780(4), 51912; 53538; 53606; BMIN/BMs 212, 3/16/39; 406, 10/15/41, MCL 21, 10/23/42.]**

(b) For the purposes of this part the time of departure of a vessel shall be that time when she gets under way on her outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which she is going. (R.S. 2793, as amended, secs. 434, 435, 441, 46 Stat. 711, as amended, 712, as amended; 19 U.S.C. 288, 1434, 1435, 1441, 46 U.S.C. 111)

§ 4.4 Panama Canal; report of arrival required.

Vessels which merely transit the Panama Canal without transacting any business there shall be required to report their arrival because of such transit. The report of arrival shall be made in accordance with section 4.2(a) of this part. **[TDs 50620, TD 79-276, BMIN/BM 441 1/23/42.]**

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required of any vessel owned by, or under the complete control and management of, the United States or any of its agencies, if such vessel (1) is manned wholly by members of the uniformed services of the United States, by personnel in the civil service of the United States, or by both, and (2) is transporting only property of the United States or passengers traveling on official business of the United States, or is in ballast. However, the master or commander of each such vessel arriving from abroad shall file a declaration as provided for in § 148.72 of this chapter and, if any cargo or passengers are on board, a manifest, in duplicate, which shall include any cargo and a list of any passengers and their baggage, specifying the number and description of the pieces of baggage belonging to each passenger. The original of each manifest required under this paragraph shall be filed with the district director within 48 hours after the arrival of the vessel. The other copy shall be made available for use by the discharging inspector at the pier. **[TDs 47389, 53336, 54029, 73-27, 74-103.]**

(b) The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting other property or passengers, and every vessel so owned or controlled but not so manned, whether in ballast or transporting cargo or passengers, shall be reported in accordance with § 4.2 and the vessel shall be entered in accordance with § 4.9.

(c) Every vessel owned by, or under the complete control and management of, any foreign nation shall be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States. (Sec. 441(1), 46 Stat. 712; 19 U.S.C. 1441(1))

§ 4.6 Departure or unlading before report or entry.

(a) The provisions of section 585, Tariff Act of 1930, as amended,[13] apply to foreign as well as American vessels, but shall not be applied to a vessel merely passing through waters within the limits of a Customs district in the ordinary course of her voyage. **[TD 47843: The Appolon, 9 Wheat 362: the Javirena, 67 Fed 152.]**

(b) The "limits of any Customs district" as used herein are those defined by § 101.1(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries. (Sec. 585, 46 Stat. 749, as amended; 19 U.S.C. 1585) **[Cunard S. S. Co. v. Mellon, 262, U.S. 100; TD 77-241.]**

[Footnotes continued from last page]
shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival;

"(3) Licensed yachts or undocumented American pleasure vessels not engaged in trade nor in any way violating the customs or navigation laws of the United States and not having visited any hovering vessel: *Provided*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the collector within twenty-four hours after arrival."

"(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

"(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear. (Tariff Act of 1930, sec. 441, as amended. 19 U.S.C. 1441)

[7] "Vessels used exclusively as ferryboats carrying passengers, baggage, and merchandise, shall not be required to enter and clear, nor shall the masters of such vessels be required to present manifests, or to pay entrance or clearance fees, or fees for receiving or certifying manifests, but they shall, upon arrival in the United States, be required to report such baggage and merchandise to the proper officer of the customs according to law." (46 U.S.C. 110)

"Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from entrance and clearance fees while such service triweekly or oftener is maintained." (46 U.S.C. 112)

[8] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seaman to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[8a] No entry is required for a vessel of less than 5 net tons which arrives in the United States from a contiguous country otherwise than by sea. For the reporting requirements applicable with respect to such vessels, see § 5.1 of this chapter.

[9] Every undocumented vessel of 5 net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel.

[10] "Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U.S.C. 91a)

"* * * Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 434 or 435 of this Act, knowing the same to be forged, altered or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $50 or to imprisonment for not more than two years, or to both such fine and imprisonment." (Tariff Act of 1930, sec. 436, as amended; 19 U.S.C. 1436)

[11] See § 4.2(b).

[13] "If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this chapter, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of $5,000, and the person in charge of such vehicle shall be liable to a penalty of $500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States." (Tariff Act of 1930, sec. 585, as amended, 19 U.S.C. 1585)

§ 4.7 Inward foreign manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431),[14] and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, a General Declaration, Customs Form 1301, and the following documents: (1) Cargo Declaration, Customs Form 1302, (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in item 17-22 of the General Declaration, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend "No merchandise on board" shall be inserted in item 13 of the General Declaration. **[TDs 37374(Q.35), 37837, 50683, 52040, 52412, 53425, 55278, 56439, 71-169, 71-205, 74-284, 77-255.]**

(b) The original and one copy of the manifest shall be ready for production on demand.[15] The master shall deliver the original and one copy of the manifest to the boarding officer.[16] If the vessel is to proceed from the port of arrival to other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The district director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy. **[TDs 52965, 53336, 53448, 53792, 53848, 54413, 55278, 69-266, 71-169.]**

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.[16a] **[TDs 51547, 51901, 54267, 54820, 71-169.]**

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, or

(ii) An American fishing vessel licensed or enrolled and licensed for the fisheries which has a permit to touch and trade (see section 4.15), or an American fishing vessel documented for the fisheries which lacks a permit to touch and trade but which is intended to engage in trade, or a registered vessel which is intended to engage in the fisheries—

at the port of first arrival from a foreign country shall declare on Customs Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466).[16b] If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on Customs Form 226. **[TD 80-237.]**

(2) If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration.

(3) The declaration shall be ready for production on demand and for inspection by the boarding officer and shall be presented as part of the original manifest when formal entry of the vessel is made.

(4) The district director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which

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[14] "The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest in a form to be prescribed by the Secretary of the Treasury and signed by such master under oath as to the truth of the statements therein contained. Such manifest shall contain:

"First. The names of the ports or places at which the merchandise was taken on board and the ports of entry of the United States for which the same is destined, particularly describing the merchandise destined to each such port: *Provided*, That the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides, dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo 'for orders,' and within fifteen days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered.

"Second. The name, description, and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs, and the name of the master of such vessel.

"Third. A detailed account of all merchandise on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag.

"Fourth. The names of the persons of whom such packages are respectively consigned in accordance with the bills of lading issued therefor, except that when such merchandise is consigned to order the manifest shall so state.

"Fifth. The names of the several passengers aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

"Sixth. An account of the sea stores and ship's stores on board of the vessel." (Tariff Act of 1930, sec. 431; 19 U.S.C. 1431)

[15] "The master of every vessel and the person in charge of every vehicle bound to a port or place in the United States shall deliver to the officer of the customs or Coast Guard who shall first demand it of him, the original and one copy of the manifest of such vessel or vehicle, and such officer shall certify on the back of the original manifest to the inspection thereof and return the same to the master or other person in charge." (Tariff Act of 1930, sec. 583; 19 U.S.C. 1583)

"Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of $500, * * *; *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, * * *, said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U.S.C. 1584)

[16] "Immediately upon arrival and before entering his vessel, the master of a vessel from a foreign port or place required to make entry shall mail or deliver to such employee as the Secretary of the Treasury shall designate, a copy of the manifest, and shall on entering his vessel make affidavit that a true and correct copy was so mailed or delivered, and he shall also mail or deliver to such employee designated by the Secretary a true and correct copy of any correction of such manifest filed on entry of his vessel. Any master who fails so to mail or deliver such copy of the manifest or correction thereof shall be liable to a penalty of not more than $500." (Tariff Act of 1930, sec. 439, as amended; 29 U.S.C. 1439)

[16a] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882)

[16b] See § 4.14(a)(1).

comes to his attention. (Secs., 439, 465, 581(a), 584, 46 Stat. 710, as amended, 712, as amended, 718, 747, as amended, 748, as amended, secs. 2, 3, 70 Stat. 544, as amended; 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. 883a, 883b)

§ 4.7a Inward manifest; information required; alternative forms.

The forms designated by § 4.7(a) as comprising the inward manifest shall be completed as follows: **[TD 71-169, 77-255.]**

(a) *Ship's Stores Declaration.* Articles to be retained aboard as sea or ship's stores, required by section 432, Tariff Act of 1930,[17] to be separately specified shall be listed on the Ship's Stores Declaration, Customs Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) *Crew's Effects Declaration. (Customs Form 1304).* (1) The declaration number of the Crew Member's Declaration, Customs Form 5129, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 on the Crew's Effects Declaration, Customs form 1304 opposite the respective crewmember's name. **[TD 77-255.]**

(2) In lieu of describing the articles on Customs Form 1304, the master may furnish a Crew List, Customs and Immigration Form I-418, endorsed as follows: **[TD 77-255.]**

> I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through Customs in the United States.
>
> ______________________
>
> (Master.)

The Crew List on Form I-418 shall show, opposite the crewmember's name, his shipping article number and, in column 5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed opposite his name instead of a declaration number.

(3) For requirements concerning the preparation of Customs Form 5129, see Subpart G of Part 148 of this chapter. **[TDs 73-27, 77-255.]**

(4) Any articles which are required to be manifested and are not manifested shall be subject to forfeiture and the master shall be subjected to a penalty equal to the value thereof, as provided in section 584, Tariff Act of 1930, as amended. **[TD 73-27.]**

(c) *Cargo Declaration.* (1) The Cargo Declaration, Customs Form 1302, shall list all the inward foreign cargo on board regardless of the port of discharge. The block designated "Arrival" at the top of the form shall be checked. The cargo described in column Nos. 6 and 7, and either column No. 8 or 9, shall refer to the respective bills of lading. Either column No. 8 *or* column No. 9 shall be used, as appropriate. The gross weight in column No. 8 shall be expressed in either pounds or kilograms. The measurement in column No. 9 shall be expressed according to the unit of measure specified in the Tariff Schedules of the United States (19 U.S.C. 1202). **[TDs 74-97, 77-255, 79-31.]**

(2)(i) When inward foreign cargo is being shipped by container, each bill of lading shall be listed in the column headed "B/L Nr." in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of the container seal shall be listed in column No. 6 opposite the bill of lading number. The number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. A description of the cargo shall be set forth in column No. 7 only if the covering bill of lading is listed in the column headed "B/L Nr." **[TDs 77-255, 79-31.]**

(ii) As an alternative to the procedure described in subparagraph (i), a separate list of the bills of lading covering each container on the vessel may be submitted on Customs form 1302 or on a separate sheet. If this procedure is used—

(A) Each container number shall be listed in alphanumeric sequence by port of discharge in column No. 6 of Customs form 1302, or on the separate sheet; and

(B) The number of each bill of lading covering cargo in a particular container, identifying the port of lading, shall be listed opposite the number of the container with that cargo in the column headed "B/L Nr." if Customs form 1302 is used, or either opposite or under the number of the container if a separate sheet is used. **[TD 79-31.]**

(3) For shipment of containerized or palletized cargo, Customs officers shall accept a Cargo Declaration which indicates that it has been prepared on the basis of information furnished by the shipper. The use of words of qualification shall not limit the responsibility of a master to submit accurate Cargo Declarations or qualify the oath taken by the master as to the accuracy of his declaration.

(i) If Cargo Declaration covers only containerized or palletized cargo, the following statement may be placed on the declaration:

> The information appearing on the declaration relating to the quantity and description of the cargo is in each instance based on the shipper's load and count. I have no knowledge or information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(ii) If the Cargo Declaration covers conventional cargo and containerized or palletized cargo, or both, the use of the abbreviation "SLAC" for "shipper's load and count," or an appropriate abbreviation if similar words are used, is approved: *Provided,* That abbreviation is placed next to each containerized or palletized shipment on the declaration and the following statement is placed on the declaration:

> The information appearing on this declaration relating to the quantity and description of cargo preceded by the abbreviation "SLAC" is in each instance based on the shipper's load and count. I have no information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(iii) The statements specified in subparagraphs (3)(i) and (3)(ii) of this paragraph shall be placed on the last page of the Cargo Declaration. Words similar to "the shipper's load and count" may be substituted for those words in the statements. Vague expressions such as "said to contain" or "accepted as containing" are not acceptable. The use of an asterisk or other character instead of appropriate abbreviations, such as "SLAC", is not acceptable.

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[17] "The manifest of any vessel arriving from a foreign port or place shall separately specify the articles to be retained on board of such vessel as sea stores, ship's stores, or bunker coal, or bunker oil, and if any other or greater quantity of sea stores, ship's stores, bunker coal, or bunker oil is found on board of any such vessel than is specified in the manifest, or if any such articles, whether shown on the manifest or not are landed without a permit therefor issued by the collector, all such articles omitted from the manifest or landed without a permit shall be subject to forfeiture, and the master shall be liable to a penalty equal to the value of the articles." (Tariff Act of 1930, sec. 432; 19 U.S.C. 1432)

(d) *Crew List.* The Crew List shall be completed in accordance with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR Part 251).

(e) *Passenger List.* (1) The Passenger List shall be completed in accordance with § 4.50 and with the requirements of the Immigration and Naturalization Service, U.S. Department of Justice (8 CFR Part 231), and the following certification shall be placed on its last page: **[TD 73-27.]**

> I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs officer; and that the responsibilities devolving upon this vessel in connection therewith, if any, have been or will be discharged as required by law or regulation before the proper Customs officer. I further certify that there are no steerage passengers on board this vessel (46 U.S.C. 151-163).
>
> ___________________________
> Master

(2) If the vessel is carrying steerage passengers, the reference to steerage passengers shall be deleted from the certification, and the master shall comply with the requirements of § 4.50.

(3) If there are no steerage passengers aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir passenger list," or similar list, in which the names of the passengers are listed alphabetically and to which the certificate referred to in subparagraph (1) of this paragraph is attached.

(4) All baggage on board a vessel not accompanying a passenger and the marks or addresses thereof shall be listed on the last sheet of the passenger list under the caption "Unaccompanied baggage." (Sections 431, 432, 439, 453, 465, 497, 498, 584, 46 Stat. 710, as amended, 712, as amended, 716, 718, 728, as amended, 748, as amended, sec. 9, 22 Stat. 189, as amended, R.S. 4573; 19 U.S.C. 1431, 1432, 1439, 1453, 1465, 1497, 1498, 1584, 46 U.S.C. 158, 674) **[TD 73-27.]**

§ 4.8 Preliminary entry.

If it is desired that any vessel having on board inward foreign cargo, passengers, or baggage shall discharge or take on cargo, passengers, or baggage before the vessel has been formally entered, preliminary entry shall be made by compliance with § 4.30 and execution by the master of the Master's Certificate on Preliminary Entry on Customs Form 1300.[18] (Sections 448, 486, 46 Stat. 714, 725, as amended; 19 U.S.C. 1448, 1486) **[TDs 47813, 53336, 54232, 66-249, 71-169.]**

§ 4.9 Formal entry.

(a) The formal entry of an American vessel from a foreign port or place shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434).[19] The formal entry of a foreign vessel arriving within the limits of any Customs district shall be in accordance with section 435, Tariff Act of 1930 (19 U.S.C. 1435).[20] The required oath on entry shall be executed on Customs Form 1300. **[TDs 50766, 72-169.]**

(b) Upon the entry of an American vessel, the master shall present to the District Director of Customs, in addition to the Crew Lists required under § 4.7(a), the certified copy of the Crew List on Customs and Immigration Form I-418 obtained, in accordance with the provisions of § 4.68(a), upon the last previous clearance outward from the United States. The master shall deposit the vessel's document with the district director before or at the time of entry. The document may be returned upon request to the master of a vessel of less than 100 gross tons engaged in taking out fishing parties. **[TDs 51107, 54267, 55504, 71-169.]**

(c) The master of any foreign vessel shall exhibit the vessel's document to the district director on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the district director the certificate required by section 435 of the Tariff Act. If not delivered to the consul, the document shall be deposited in the customhouse.[21] **[TD 71-169.]**

(d) The master of every vessel required to make entry shall present on entry the pratique required by the pertinent regulations of the United States Public Health Service and shall pay all required fees and penalties incurred. **[TDs 51253, 71-169]**

(e) The master, licensed deck officer, or purser may appear in person at the customhouse to enter the vessel; or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representatives of the master. (Secs. 434, 435, 46 Stat. 711, as amended, sec. 366, 58 Stat. 705, R.S. 4576, as amended; 19 U.S.C. 1434, 1435, 42 U.S.C. 269, 46 U.S.C. 677) **[TDs 53775, 54267, 71-169.]**

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[18] "* * * the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse as provided by this Act. * * *" (Tariff Act of 1930, sec. 448(a); 19 U.S.C. 1448(a))

[19] "Except as otherwise provided by law, and under such regulations as the Secretary of the Treasury may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the collector the vessel's crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 431 of this Act." (Tariff Act of 1930, sec. 434, as amended; 19 U.S.C. 1434)

[20] "The master of any foreign vessel arriving within the limits of any customs collection district shall, within forty-eight hours thereafter, make entry at the customhouse in the same manner as is required for the entry of a vessel of the United States, except that a list of the crew need not be delivered, and that instead of depositing the register or document in lieu thereof such master may produce a certificate by the consul of the nation to which such vessel belongs that said documents have been deposited with him: *Provided*, That such exception shall not apply to the vessels of foreign nations in whose ports American consular officers are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nations." (Tariff Act of 1930, sec. 435; 19 U.S.C. 1435)

[21] "It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 435 of this Act until such master shall produce to him a clearance in due form from the collector of the port where such vessel has been entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than $5,000." (Tariff Act of 1930, sec. 438; 19 U.S.C. 1438)

§ 4.10 Request for overtime services.

Request for overtime services in connection with the entry or clearance of a vessel, including the boarding of a vessel for the purpose of preliminary entry,[22] shall be made on Customs Form 3171. (See § 24.16 of this chapter regarding pleasure vessels.) Such request for overtime services must specify the nature of the services desired and the exact times when they will be needed, unless a term special license (unlimited or limited to the service requested) has been issued (see § 4.30(g)) and arrangements are made locally so that the proper Customs officer will be notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times they will be needed. Such request shall not be approved (previously issued term special licenses shall be revoked) unless the carrier complies with the provisions of paragraphs (l) and (m) of § 4.30 regarding terminal facilities and employee lists, respectively, and the required cash deposit or bond, on Customs Form 7567 or 7569, has been received. Separate bonds shall be required if overtime services are requested by different principals. (Secs. 448, 451, 46 Stat. 714, 715, as amended; 19 U.S.C. 1448, 1451) **[TDs 52442, 53461, 53626, 68-247, 72-189.]**

§ 4.11 Sealing of stores.

Upon the arrival of a vessel from a foreign port, or a vessel engaged in the foreign trade from a domestic port, sea stores and ship's stores not required for immediate use or consumption on board while the vessel is in port and articles acquired abroad by officers and members of the crew, for which no permit to land has been issued, shall be placed under seal, unless the Customs officer is of the opinion that the circumstances do not require such action. Customs inspectors in charge of the vessel, from time to time, as in their judgment the necessity of the case requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew. (See § 4.39.) **[TDs 38218, 38248, 40852.]**

§ 4.12 Explanation of manifest discrepancy.

(a)(1) Vessel masters or agents shall notify the district director on Customs Form 5931 of shortages (merchandise manifested, but not found) or overages (merchandise found, but not manifested) of merchandise. **[TDs 51288, 52021, 52773, 53336, 53792, 55436, 71-22, 76-81.]**

(2) Shortages shall be reported to the district director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 158.3 of this chapter, or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonimportation[23] or of proper disposition or other corrective action (see § 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for one year. **[TDs 72-258, 76-81.]**

(3) Overages shall be reported to the district director within 60 days after the date of entry of the vessel by completion of a post entry[24] or suitable explanation of corrective action (see § 4.34) on the Customs Form 5931. **[TD 76-81.]**

(4) The district director shall immediately advise the master or agent of those discrepancies which are not reported by the master or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days after the date of such notification, or within 60 days after entry of the vessel, whichever is later. **[TD 76-81.]**

(5)(a) Unless the required notification and explanation is made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for failing to so report), applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed (see section 162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing applicable penalties, the value of the merchandise shall be determined as prescribed in section 162.43 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty. **[TDs 72-211, 75-299, 79-160.]**

(b) Except as provided in paragraph (c) of this section, a correction in the manifest shall not be required in the case of bulk merchandise if the district director is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing vessel when the quantity and description of the merchandise in such packages are correctly given. **[TDs 53336, 55436.]**

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[22] Except as provided in section 441 of this Act (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unladen from any vessel or vehicle arriving from a foreign port or place until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unlading of the same issued by the collector: *Provided*, That the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. * * *." (Tariff Act of 1930, section 448(a); 19 U.S.C. 1448(a))

[23] * * * "If any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be subject to a penalty of $500: *Provided*, That if the appropriate Customs officer shall be satisfied that the manifest * * * is incorrectly by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * * , the term 'clerical error' means a non-negligent, inadvertent, or typographical mistake in the preparation, assembly or submission of the manifest. * * * " (Tariff Act of 1930, sec. 584, as amended, 19 U.S.C. 1584). **[TDs 79-160, 80-142.]**

[24] "If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to such employee as the Secretary of the Treasury shall designate and for failure so to do shall be liable to a penalty of $500." (Tariff Act of 1930, sec. 440, as amended; 19 U.S.C. 1440). **[TD 80-142.]**

(c) Manifest discrepancies (shortages and overages) of petroleum and petroleum products imported in bulk shall be reported on Customs Form 5931, if the discrepancy exceeds one percent. (Secs. 440, 584, 46 Stat. 712 as amended, 748, as amended (19 U.S.C. 1440, 1584) **[TD 80-142, 45 FR 36383, May 30, 1980]**

§ 4.13 Alcoholic liquors on vessels of not over 500 net tons.[25]

(a) When a vessel of not over 500 net tons which arrives from a foreign port or a hovering vessel, has on board any alcoholic liquors, a certificate respecting the importation of any spirits, wines, or other alcoholic liquors on board, other than sea stores, shall be delivered to the boarding officer with the inward foreign manifest. Each such certificate shall consist of a declaration of the master of the vessel, together with the certificate of a consular officer of the United States or other authorized person, and shall cover only one shipment from one consignor to one consignee or firm of consignees. The document shall be in substantially the following form: **[TDs 47886, 48711, 49258, 49658, 53336, 67-201.]**

Declaration of Master and Certificate Covering Shipment of Spirits, Wines, or Other Alcoholic Liquors on a Vessel of 500 Net Tons or Less (19 U.S.C. 1707)

Declaration of Master. I declare that the following merchandise is being shipped in accordance with the facts here stated as true and correct to the best of my information and belief:

Date of shipment:____________________
Marks, numbers, and quantities:____________________
Port of arrival:____________________
Consignor:____________________
Full description of goods:____________________
Consignee:____________________

____
(Signature)

Master of the____________________
(Name of vessel)

____
(Port of shipment)
—————————— 19—
(Date)

(Use whichever alternative applies:)

Certificate of Consular Officer. I certify that the above declaration was this day produced and signed before me by the individual whose signature appears, that I am satisfied he is the person he represents himself to be, that I have delivered one copy hereof to him, and that I have retained a copy in my files.

Service number not required.____________________
(Post)

Tariff item No. 58(a) (no fee).____________________
(Date)

[consular
impression
seal]

____
(Signature)

____
(Title)

Certificate of Other Authorized Person. I certify that I have been designated by letter of ———————, 19—, from (insert name of Officer), American (title) at (place), to provide certifications upon declarations made by masters under § 7 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1707), that the above declaration was this day produced and signed before me by the individual whose signature appears, that I am satisfied he is the person he represents himself to be, that I have no interest in the shipment described, that I have delivered one copy hereof to the person making the declaration, and that I have forwarded one copy to the American (Embassy, Consulate General, Consulate) at (place).

____
(Port of shipment)
—————————— 19—(Date)

[seal not
required]

____
(Signature)

____
(Title)

The provisions of this paragraph, read together with those of § 91.4, Title 22, Code of Federal Regulations, constitute the joint regulations contemplated for issuance by the Secretary of State and the Secretary of the Treasury under section 1707, Title 19, United States Code.

(b) When any shipment of spirits, wines, or other alcoholic liquors found on board a vessel not exceeding 500 net tons is not accompanied by a certified declaration as described in paragraph (a) of this section but is shown to have a bona fide destination outside the United States, the master shall furnish a landing bond on Customs Form 7593 with an authorized corporate surety. **[TDs 49258, 67-201.]**

(c) The condition of the landing bond shall be satisfied by the delivery to the district director within 6 months from the date of the bond of a landing certificate or certificates of a revenue officer of the country of destination showing that all the alcoholic liquors have been landed at their foreign destination.

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[25] "In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided,* That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. * * *." (19 U.S.C. 1707)

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

(a) *Dutiability of foreign repairs and equipment purchases.* (1) *Items subject to duty.* The equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses for repairs made, including the cost of labor incurred, outside the United States, upon any vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, are dutiable at the rate of 50 percent ad valorem on the actual cost in the country where the items are purchased or the repairs are made. Duty attaches at the time the repairs or purchases are made. Liability for declaration, entry, and payment of duties accrues at the time of the first arrival of the vessel in a port of the United States. For the purposes of this section, equipment, repair parts or materials purchased, or repairs made, in American Samoa, the Guantanamo Bay Naval Station, Guam, Puerto Rico, or the U.S. Virgin Islands are not considered to have been purchased or made outside the United States.

(2) *Dutiable costs on specific types of vessels.* (i) *Fishing vessels.* Vessels of the United States which are licensed or enrolled and licensed for the fisheries and have a permit to touch and trade (see section 4.15), vessels documented for the fisheries which lack of permit to touch and trade but which are intended to engage in trade, and registered vessels which are intended to engage in the fisheries, are subject to this section.

(ii) *Government-owned or chartered vessels.* Vessels owned or chartered by the United States Government, if documented for, or intended to engage in, the foreign or coasting trade, are subject to this section. See paragraph (b)(2)(i) of this section with respect to entry procedures for Government vessels.

(iii) *Special purpose vessels.* (A) *Defined.* A vessel which is documented for the foreign or coasting trade, but is designed and used primarily for purposes other than transporting passengers or merchandise, is considered to be a "special purpose vessel."

(B) *Requirements for declaration and entry.* The owner or master of a special purpose vessel shall declare and enter all items purchased, or repairs made, outside the United States unless Customs previously has ruled the vessel is a special purpose vessel and the vessel arrives in a port of the United States two years or more after its last departure from a port of the United States. Under these circumstances, only those items (with the exception of fish nets and netting) purchased, and repairs made, outside the United States during the first six months after the vessel's last departure from the United States shall be declared and entered. Fish nets and netting purchased or repaired outside the United States shall be declared and entered whether or not purchased or repaired during the first six months after departure. A copy of the applicable Customs ruling and a certification from the owner or master that the vessel was used during its last voyage primarily for purposes other than transporting passengers or merchandise shall be furnished with the declaration and entry.

(C) *Dutiable items.* If the special purpose vessel is operated in international or foreign waters two years or more after its last departure from the United States, the only dutiable items are fish nets and netting whenever purchased and any other items purchased or repairs made during the first six months after the vessel's last departure from the United States.

(iv) *LASH Barges.* Lighter-aboard-ship (LASH) barges (see sections 4.81 and 4.81a) and similar vessels documented for, or intended to engage in, the foreign or coasting trade are subject to this section.

(b) *Declaration and repair entry.* (1) *Declaration.* Upon first arrival of the vessel in the United States, the owner or master shall declare on Customs Form 226 all equipment, parts, or materials purchased, and all repairs made, outside the United States. Except as provided in § 4.14(a)(2)(iii)(B), the declaration is required regardless of the dutiable status of such items or expenses. The declaration shall be ready for production on demand and for inspection by the boarding officer and shall be presented as part of the original manifest when formal entry of the vessel is made. Estimated duties shall be deposited or a bond on Customs Form 7567 or 7569 shall be filed before the departure of the vessel, except as provided in subparagraph (2)(i) of this paragraph. The amount of the bond shall be determined by the district director as provided in § 113.14(m) of this chapter. See paragraph (g) of this section for applicable penalties.

(2) *Entry.* All equipment, parts, or materials purchased for, and all repairs made outside the United States to, any vessel subject to the provisions of this section shall be entered on Customs Form 226 by the master or owner of the vessel. The entry shall be filed with the appropriate Customs officer at the port of first arrival within five working days after arrival. The Customs officer with whom the entry is filed shall forward it to the appropriate vessel repair liquidation unit. The party filing the entry shall mark it to indicate whether it is a full and complete account or an incomplete account. See paragraph (g) of this section for applicable penalties.

(i) *Entry procedures for vessels owned or chartered by the United States.* Whenever the appropriate Customs officer determines that a Government-owned or chartered vessel subject to the provisions of this section (see paragraph (a)(2)(ii)) is being operated by an agency of the United States, or that a Government-owned or chartered vessel is being operated by a private party for an agency of the United States under an agreement that obligates the Government agency to pay any duty on the costs of repairs or purchases, the vessel shall be allowed to depart the port of first arrival without depositing estimated duties or furnishing a bond to cover estimated duties. In all other cases, the vessel shall be treated as though privately owned.

(ii) *Time period for submitting evidence of cost.* Whenever a repair entry is submitted as a full and complete account, the entry papers shall include evidence showing the cost of each item listed on the entry. If a repair entry is submitted as an incomplete account, the evidence must be submitted within 60 days from the date of the vessel's arrival. If before the end of the 60-day period, the party that is required to furnish the evidence of cost submits a written request for an extension of time beyond the 60-day period, together with a satisfactory explanation of the delay, to the appropriate vessel repair liquidation unit, that unit may grant an additional 30-day extension of time to submit cost evidence. Any request for a further extension of time to furnish evidence of cost shall be submitted to the appropriate vessel repair liquidation unit, which shall transmit the request to Headquarters, U.S. Customs Service, Attention: Carrier Rulings Branch, for approval. If the costs shown on the complete account differ from the costs declared on the entry, the appropriate Customs officer may permit amendment of the entry.

(A) *Investigation to obtain evidence.* If the required evidence is not furnished timely, or is of doubtful authenticity, the appropriate regional commissioner shall use all available means to obtain the necessary information and may refer the matter to the Office of Investigations. If an investigation is conducted, the Office of Investigations shall obtain all available evidence on the cost of the repairs and any evidence with respect to the reason for the party's failure to submit the evidence in a timely fashion.

(B) *Concurrent time period for submission of costs and filing application for relief.* The 60-day time period to submit evidence of cost on the entry is concurrent with the 60-day time period to submit an application for relief under paragraph (d)(1)(ii) of this section and will not operate to provide additional time to submit an application for relief. A request for additional time to submit evidence of cost may include a request for additional time to submit an application for relief.

(c) *Remission or refund of duty.* (1) *Vessel repair liquidation units.* Vessel repair liquidation units under the supervision of the Regional Commissioner of Customs are established at New York, N.Y. (Region II), New Orleans, Louisiana (Region V), and San Francisco, California (Region VIII). The Region II unit shall process and liquidate each vessel repair entry filed at ports in Regions I (Boston), II (New York), III (Baltimore), and IX (Chicago). The Region V unit shall process and liquidate each vessel repair entry filed at ports in Regions IV (Miami), V (New Orleans), and VI (Houston). The Region VIII unit shall process and liquidate each vessel repair entry filed at ports in Regions VII (Los Angeles) and VIII (San Francisco). After processing and liquidation of the entries, the bulletin notices of liquidation shall be returned to the respective ports of entry for posting.

(2) *Authority.* If clearly applicable precedent for a decision exists and any remission or refund of duty as a result of a decision will be less than $2,500, the Regional Commissioners of Regions II, V, and VIII may approve or deny any application for relief on vessel repair entries filed at the ports within their respective jurisdictions. If there is no clearly applicable precedent on which to base a decision, or if the decision may result in a remission or refund of $2,500 or more in duty, the respective Regional Commissioner shall refer the matter to Headquarters, U.S. Customs Service, Attention: Carrier Rulings Branch, for advice before acting on the application for relief.

(3) *Basis for remission or refund.* Remission or refund of duty is authorized if good and sufficient evidence is furnished which shows any of the following circumstances exist:

(i) *Stress of weather or other casualty.* The vessel, while in the regular course of its voyage, was compelled, by stress of weather or other casualty, while outside the United States, to purchase such equipment or make such repairs, to secure the safety and seaworthiness of the vessel to enable it to reach its port of destination in the United States. However, only the duty on the cost of the minimal repairs needed for the safety and seaworthiness of the vessel is subject to remission or refund. For the purposes of this section, the term "casualty" does not include any purchases or repairs necessitated by ordinary wear and tear, but does include a part's failure to function if satisfactory evidence shows that the specific part was repaired or serviced immediately before starting the voyage from the United States port and that the part failed to function within six months of such repair or servicing.

(ii) *United States parts and equipment installed with American labor.* The equipment, equipment parts, repair parts or materials used on the vessel were manufactured or produced in the United States and purchased by the owner of the vessel in the United States, and the labor necessary to install such equipment or to make such repairs was performed by residents of the United States or by members of the regular crew of the vessel.

(iii) *Dunnage.* The equipment, equipment parts, materials or labor were used as dunnage for cargo, or for the packing or shoring thereof, or in the erection of temporary bulkheads or other similar devices for the control of bulk cargo, or in the preparation (without permanent repair or alteration) of tanks for the carriage of liquid cargo.

(d) *Procedure for remission or refund of duties.* (1) *Application for relief.* (i) *Form and contents.* The application for relief need not be in any particular form. The application for relief should allege that an item or a repair expense covered by the entry is not subject to duty under paragraph (a) of this section, or that the articles purchased or the repair expenses are within the provisions of paragraph (c) of this section, or that both conditions are present. The application for relief also shall certify that all foreign equipment, parts or materials purchased for, and all foreign repairs made to, the vessel within one year immediately preceding the application have been declared as required by this section, or the application shall be deemed incomplete. The application for relief shall be signed by the master, owner, or operator of the vessel, or their authorized agent. If the application for relief is filed by a corporation it shall be signed by an authorized corporate officer.

(ii) *Place and time of filing.* The application for relief shall be filed with the appropriate Customs officer at the port where the vessel repair entry was made or with the appropriate vessel repair liquidation unit (see paragraph (c)(1) of this section). If filed at the port where the entry was made, the Customs officer who receives the application shall promptly forward it, together with his comments, if any, to the appropriate vessel repair liquidation unit. The application for relief, with supporting evidence, shall be filed within 60 days from the date of first arrival of the vessel. However, if good cause is shown, the appropriate vessel repair liquidation unit may authorize one 30-day extension of time to file beyond the 60-day filing period.

(iii) *Supporting evidence.* Unless such evidence is already filed with Customs, each application for relief shall include duplicate copies of the following evidence, in addition to any other documents the applicant wishes to submit in support of the application:

(A) All itemized bills, receipts, and invoices covering items specified in paragraph (a)(1) of this section, segregating the cost of those items for which relief is sought from all other items listed in the vessel repair entry.

(B) Full and complete photocopies of the relevant parts of the vessel's logs.

(C) Photocopies of any American Bureau of Shipping or other classification society report of the cause and type of damage and the nature of the remedial action taken, together with photocopies of any certifications of seaworthiness.

(D) A certification by the master or other responsible vessel officer with personal knowledge of the facts relating to the relief sought, including, but not limited to, details of the claimed stress of weather or other casualty, when and where it occurred, the damages due to such stress of weather or other casualty, and the place and date where the vessel was repaired or the equipment for the vessel was purchased.

(E) A certification by the master as to whether the repairs or equipment purchases were necessary for the safety and seaworthiness of the vessel to enable it to reach its port of destination in the United States.

(F) A written description of the circumstances involved by the master or other responsible vessel officer having knowledge of the facts when remission or refund is sought under the provisions of paragraph (c)(3)(ii) (relating to the use of American equipment and labor) or (c)(3)(iii) (relating to dunnage) of this section.

(iv) *Documentary evidence.* All documents submitted in support of an application must be certified by the master or owner of the vessel to be originals or copies of originals. If a vessel is owned or operated by a corporation, the master or an authorized corporate officer shall certify the documents. Documents in a foreign language shall be accompanied by an English translation that is certified for accuracy by the translator.

(v) *Action.* Within 60 days after receipt of an application for relief by a vessel repair liquidation unit, the appropriate regional commissioner shall either approve or deny the application for relief or forward it to Headquarters, U.S. Customs Service, Attention: Carrier Rulings Branch, for advice, as provided in paragraph (c)(2) of this section. The appropriate regional commissioner shall give prompt written notice of any final decision to the party who submitted the application. The notice shall advise the party of its right to petition for review of the decision under paragraph (d)(2) of this section. If the decision involves remission of duty under paragraph (c) of this section and the entry has been liquidated, reliquidation is not required. If any other relief is granted and the entry has been liquidated, reliquidation is required.

(vi) *Suspension of liquidation.* If an application for relief has been filed within the time period provided in paragraph (d)(1)(ii) of this section, liquidation of the vessel repair entry shall be suspended until 30 days after the date of the written notice provided for in paragraph (d)(1)(v) of this section.

(2) *Petition for review on a denial of an application for relief.*

(i) *Form.* If an applicant is dissatisfied with the decision on its application for relief, the applicant may file a petition for review of that decision. The petition for review need not be in any particular form. The petition for review must identify the decision on the application for relief and must detail the exceptions taken to that decision. The petition shall be signed by the master, owner, or operator of the vessel, or their authorized agent. If the petition for review is filed by a corporation, it must be signed by a duly authorized corporate officer.

(ii) *Place and time of filing.* The petition for review shall be addressed to the Commissioner of Customs and shall be filed with the appropriate vessel repair liquidation unit within 30 days after the date of the written notice to the party of the decision on the application for relief, as provided in paragraph (d)(1)(v) of this section. However, if good cause is shown, the appropriate vessel repair liquidation unit may authorize one additional 30-day extension of time.

(iii) *Action.* The appropriate regional commissioner promptly shall transmit a copy of the petition for review, any comments and recommendations he may have on the petition for review, and the entire file on the application for relief to Headquarters, U.S. Customs Service, Attention: Carrier Rulings Branch, for decision. After notification of the decision by Headquarters, the appropriate regional commissioner shall give written notification of that decision to the party who filed the petition for review. The notice will inform the party of his right to submit a supplemental petition for review and that no further suspension of liquidation will be permitted.

(iv) *Suspension of liquidation.* If an original petition for review is filed within the time provided for in paragraph (d)(2)(ii) of this section, liquidation of the vessel repair entry shall be suspended further until the regional commissioner notifies the party who filed the petition of the decision on the petition. Following notification of the Headquarters decision to the party who filed the petition, the vessel repair liquidation unit shall promptly initiate liquidation of the entry in accordance with that decision even if a supplemental petition for review is filed.

(e) *Liquidation of vessel repair entries, time limits.* If evidence of cost is available and the appropriate vessel repair liquidation unit receives written notification from the master, owner, or operator of the vessel, or their authorized agent, that an application for relief will not be filed, the vessel repair liquidation unit promptly shall initiate liquidation of the entry. In all other cases in which the evidence of cost is available, the entry may be liquidated 60 days after arrival of the vessel, or at the expiration of any extension of time granted under paragraph (b)(2)(ii) of this section to furnish evidence of cost, unless an application for relief is filed timely as provided in paragraph (d)(1)(ii) of this section. If an application for relief is filed timely, the vessel repair entry may be liquidated 30 days after the date of the written notice to the party who filed the application for relief, as provided in paragraph (d)(1)(v), unless a petition for review is filed timely under paragraph (d)(2)(ii) of this section. If a petition for review is filed timely, the vessel repair entry may be liquidated after the date of the notification of the decision on the petition to the party who filed the petition even though a supplemental petition for review is filed.

(f) *Protests.* Following liquidation of an entry, a protest under Part 174 of this chapter may be filed against the decision to treat an item or a repair as dutiable under paragraph (a) of this section.

(g) *Penalties.* (1) *Failure to report, enter, or pay duty.* If the owner or master of a vessel subject to the provisions of paragraph (a) of this section willfully or knowingly neglects or fails to report, make entry, and pay duties as required, or if he makes any false statement in respect of the purchases or repairs described in this section without reasonable cause to believe the truth of the statements, or aids or procures the making of any false statement as to any material matter without reasonable cause to believe the truth of the statement, the vessel, with its tackle, apparel, and furniture, or a monetary amount up to the value thereof as determined by the Secretary of the Treasury, to be recovered from the owner, shall be subject to seizure and forfeiture.

(2) *False declaration.* If any person required to file a declaration on Customs Form 226, by paragraph (b)(1) of this section, or to file an entry on Customs Form 226, by paragraph (b)(2) of this section, willfully and knowingly provides any false information, or willfully and knowingly omits any required information, that person shall be subject to the criminal penalties provided for in 18 U.S.C. 1001.

(R.S. 251, as amended, sections 466, 498, 514, 624, 46 Stat. 718, as amended, 728, as amended, 734, as amended, 759, 84 Stat. 1944 (19 U.S.C. 66, 1466, 1498, 1514, 1624)) **[T.D. 80-237.]**

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel enrolled and licensed or licensed to engage in the fisheries shall touch and trade at a foreign port or place, the master shall obtain from the district director a permit on Customs Form 1379 to touch and trade.

When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.[28] Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty. **[TDs 42018, 77-28.]**

(b) Upon the arrival of a vessel enrolled and licensed or licensed for the fisheries which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the district director.

(d) No permit to touch and trade shall be issued to a vessel enrolled and licensed or licensed for the coasting trade and mackerel fishery which is departing on a foreign voyage to engage exclusively in a trade other than the fisheries. For such a voyage the vessel shall be registered and the master shall obtain clearance for the foreign port or place. (R.S. 4364, 4365; 46 U.S.C. 310, 311)

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[28] "Whenever any vessel, licensed for carrying on the fisheries, is intended to touch and trade at any foreign port, it shall be the duty of the master or owner to obtain permission for that purpose from the collector of the district where such vessel may be, previous to her departure, and the master of every such vessel shall deliver like manifests, and make like entries, both of the vessel and of the merchandise on board, within the same time, and under the same penalty, as are by law provided for vessels of the United States arriving from a foreign port." (46 U.S.C. 310)

"Whenever a vessel, licensed for carrying on the fisheries, is found within three leagues of the coast, with merchandise of foreign growth or manufacture, exceeding the value of $500, without having such permission as is directed by section 310 of this title, such vessel together with the merchandise of foreign growth or manufacture imported therein, shall be subject to seizure and forfeiture." (46 U.S.C. 311; see also 46 U.S.C. 325)

If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies. (R.S. 251, as amended, R.S. 4364, secs. 466, 624, 46 Stat. 718, as amended, 759 (19 U.S.C. 66, 1466, 1624, 46 U.S.C. 310))

§ 4.16 Entry and clearance on board vessels.

(a) A master, owner, or agent of a vessel described in the Act of June 16, 1937,[29] who desires that arrival may be reported, entry made, and clearance obtained on board the vessel shall file with the district director of Customs an application on Customs Form 3171 and a bond on Customs Form 7567 in such penal sum as the district director of Customs deems sufficient but not less than $1,000, or the usual term bond on Customs Form 7569. **[TDs 49117, 51273, 68-247.]**

(b) If the application is approved, the collector of Customs or such Customs officer as may be designated by him shall receive the report of arrival and the entry of the vessel and grant it clearance on board the vessel.

(c) For the purposes of the said act the term "at night" shall include the hours from 5 p.m. of one day to 8 a.m. of the following day, and the term "holiday" shall include only national holidays. (50 Stat. 303; 19 U.S.C. 1435b)

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also § § 4.20(c) and 159.42 of this chapter.) **[TDs 39057, 53336, 73-175.]**

Tonnage Tax and Light Money

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty[36] of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide: **[TDs 37618, 53336, 54364, 54819; BNGL 270, 4/7/25; 318, 10/12/32. BMIN/BM 373, 5/27/41. MCL 18, 9/11/42.]**

(1) When the vessel has proceeded in ballast from a port to which the 6-cent rate is applicable to a port to which the 2-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 2-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 6-cent port to a 2-cent port when all such cargo or passengers have been unladen or discharged at the 2-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 2-cent port.

(3) The 6-cent rate shall be applied when the vessel proceeds from a 2-cent port to a 6-cent port en route to the United States under circumstances similar to subparagraph (1) or (2) of this paragraph.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year.[37] **[TDs 6082, 51073.]**

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax[38] and to the payment of light money[39] at the rates and under the circumstances specified in the following table: **[BN Gen. Ltr. 142, 5/5/17; TDs 22547, 53399, 75-110, 76-280.]**

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[29] "In order to expedite the dispatch of vessels carrying passengers operating on regular schedules and arriving at night or on a Sunday or a holiday at a port in the United States at which such vessel is required by law to report arrival and make entry and from which it is required to obtain a clearance, the collector of customs, or any deputy collector of customs designated by him, if the vessel departs during the same night, Sunday, or holiday on which it arrives may, under such regulations as may be prescribed by the Secretary of Treasury, receive the report of arrival and entry of such vessel from and give clearance for such vessel to the master or other proper officer thereof on board such vessel: *Provided*, That bond, as prescribed in section 1451 of this title, is given to secure reimbursement to the Government for the compensation of, and expenses incurred by, such customs officers in performing such services, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to lading or unlading at night or on Sunday or a holiday." (19 U.S.C. 1435b. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[36] Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton, and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

"A tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port, not, however, to include vessels in distress or not engaged in trade.

"Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter and trade, there shall be paid a duty at the rate of $2 per ton; and none of the duties on tonnage above-mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton." (46 U.S.C. 121)

[37] There may be five payments at the maximum (6-cent) and five at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cents per net ton for the tonnage year of a vessel engaged in alternating trade.

[38] See footnote 36.

[39] "A duty of 50 cents per ton, to be denominated 'light money', shall be levied and collected on all vessels not of the United States which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: *Provided*, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States." (46 U.S.C. 128)

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.02 or $0.06		
2. All others:			
(i) If all the officers are citizens	.02 or .06		
(ii) If any officer is not a citizen	.02 or .06	[1] $0.50	[1] $0.50
Undocumented vessels which are owned by citizens[2]	.02 or .06	.50	[3] .50
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money	.02 or .06		
2. Entering from a foreign port of place where vessels of the United States are not ordinarily permitted to enter and trade	.02 or .06	[4] 2.00	[4] .50
3. All others:			
(i) Built in the United States	.02 or .06	.30	.50
(ii) Not built in the United States	.02 or .06	.50	.50

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

[2] This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the collector the oath required by 46 U.S.C. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

[4] This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders. **[TD 49523.]**

(e) The fact that a vessel passes through the Panama Canal does not affect the rate of tonnage tax otherwise applicable to the vessel. **[TD 79-276.]**

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the master's oath, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer. **[MCLs 8/7/42; 27, 12/15/42; TDs 68-216, 71-169.]**

(g) The decision of the Commissioner of Customs is final on any question of interpretation relating to the collection of tonnage tax or to the refund of such when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions. (R.S. 4153, as amended, secs. 2, 4, 28 Stat. 743, as amended, R.S. 4154, as amended, 4219, as amended, 4225, as amended, 4131, as amended; 46 U.S.C. 77, 78, 79, 81, 83–83k, 121, 128 221)

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct. **[BNGL 270/25; BMIN/BM 373/41; TD 49523.]**

(b) A vessel shall not be liable to the payment of tonnage tax or light money merely because— **[TDs 53187(1), 53399.]**

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade. **[TD 53399.]**

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies, if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(10) It is used exclusively as a ferry boat, including a car ferry.

(11) It is a tug under frontier enrollment and license, when towing vessels which are required to make entry.

(12) It is a vessel under frontier enrollment and license which has touched at an intermediate foreign port or ports during a coastwise voyage.

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse dues or equivalent taxes are not imposed on vessels of the United States.[44] **[TD 51912.]**

(14) [Reserved]

(15) It is a vessel entering directly from the Virgin Islands (U.S.), American Samoa, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station. **[TDs 51547, 55406, 72-264, 79-276.]**

(16) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year.

(17) It is a vessel arriving at a port in the United States which, while proceeding between ports in the United States, touched at a foreign port under circumstances which would have exempted it from making entry under section 441(4), Tariff Act of 1930, as amended (19 U.S.C. 1441(4)), had it touched at a United States port. (Sec. 441, 46 Stat. 712, as amended, R.S. 4214, as amended, 4219, as amended, 4220, 2793, as amended, 2792, as amended, 4221, 4225, as amended, 4226, sec. 1, 39 Stat. 286, 36 Stat. 234, R.S. 4227; 19 U.S.C. 1441, 46 U.S.C. 103, 121-125, 128-130, 132, 135) **[TDs 75-206, TD 55406.]**

§ 4.22 Exemptions from special tonnage taxes.

Vessels of the following nations are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of any higher tonnage duties than are applicable to vessels of the United States and are exempted from the payment of light money: **[TDs 50625, 51166, 51171, 51769, 52238, 52340, 52545, 52591, 53129, 54352, 55069, 55113, 55534, 56063, 56195, 56313, 56421, 56440, 56530, 56548, 66-11, 66-57, 66-106, 66-166, 66-235, 66-237, 66-264, 68-100, 70-21, 70-22, 70-112, 70-113, 70-117, 70-147, 70-156, 70-171, 70-204, 70-211, 70-234, 71-26, 71-80, 71-94, 72-254, 73-95, 73-123, 75-240, 76-279, 76-280, 77-3, 78-139, 78-157, 78-451, 79-134, 79-220, 79-258, ○ 79-304, 80-255, 81-71, 81-199, 81-261, 82-16.]**

Algeria.
Arab Republic of Egypt.
Argentina.
Australia.
Austria.
Bahamas, The.
Bangladesh.
Barbados.
Belgium.
Bermuda.
Bolivia.
Brazil.
Bulgaria.
Burma.
Canada.
Chile.
China, Republic of.
Colombia.
Costa Rica.
Cuba.
Cyprus.
Czechoslovakia.
Denmark (including the Faeroe Islands).
Dominican Republic.
Ecuador.
El Salvador.
Estonia.
Ethiopia.
Fiji.
Finland.
France.
Gambia, The.
German Democratic Republic.
German Federal Republic.
Ghana.
Great Britain, (including the Cayman Islands).
Greece.
Greenland.
Guatemala.
Guinea, Republic of.
Guyana.
Haiti.
Honduras.
Iceland.
India.
Indonesia.
Iran.
Iraq.
Ireland (Eire).
Israel.
Italy.
Ivory Coast, Republic of.
Jamaica.
Japan.
Kenya.
Korea.
Kuwait.
Latvia.
Lebanon.
Liberia.
Libya.
Malaysia.
Malta.
Mauritius.
Mexico.
Monaco.
Morocco.
Nauru, Republic of.

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[44] "Vessel entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year." (46 U.S.C. 132) This statute applies to a vessel arriving in the United States on a voyage otherwise than by sea from a port in the province of Ontario, Canada, only.

Netherlands Antilles.
Netherlands.
New Zealand.
Nicaragua.
Nigeria.
Norway.
Oman.
Pakistan.
Panama.
Papua New Guinea
Paraguay.
People's Republic of China.
Peru.
Philippines.
Poland.
Portugal.
Qatar.
Rumania.
Saudi Arabia.
Senegal.
Singapore, Republic of.
Somali, Republic.
Spain.
Surinam, Republic of.
Sri Lanka.
Sweden.
Switzerland.
Syrian Arab Republic.
Thailand.
Togo.
Tunisia.
Turkey.
Union of South Africa.
Union of Soviet Socialist Republics.
United Arab Emirates.
Uruguay.
Venezuela.
Yugoslavia.
Zaire.

(R.S. 4219, as amended, 4225, as amended, 4228, as

Note: For FR citations affecting § 4.22, see List of CFR Sections Affected.

§ 4.23 Certificate of payment.

Upon each payment of tonnage tax or light money, the district director shall give to the master of the vessel a certificate on Customs Form 1002. This certificate shall constitute the official evidence of such payment and shall be presented upon each entry during the tonnage year in order to establish the date of commencement of the tonnage year and to insure against overpayment. In the absence of such certificate, evidence of payment of tonnage tax shall be obtained from the district director to whom the payment was made. **[TD 53232.]**

§ 4.24 Application for refund of tonnage tax.

(a) The authority to make refunds in accordance with section 26 of the Act of June 26, 1884 (46 U.S.C. 8) of regular tonnage taxes described in § 4.20(a) is delegated to the several Regional Commissioners of Customs. If any doubt exists, the case shall first be referred to Headquarters, U.S. Customs Service for advice. **[BNGL 270/25; TDs 10284, 54232, 71-274.]**

(b) Each application for refund of regular or special tonnage tax or light money prepared in accordance with this section shall be filed with the Customs officer to whom payment was made. After verification of the pertinent facts asserted in the claim, the application shall be forwarded with any necessary report or recommendation to the Regional Commissioner of Customs. Applications for refund of special tonnage tax and light money (see § 4.20(c)) with the reports and recommendations submitted therewith shall be forwarded by the Regional Commissioner to the Commissioner of Customs for decision. Any refund authorized by the Regional Commissioner of Customs under paragraph (a) of this section or any refund of special tonnage tax or light money authorized by the Commissioner of Customs shall be made by the appropriate Customs officer. The records of tonnage tax shall be clearly noted to show each refund authorized. **[BMIN/CL 227/38; TDs 53399, 54232, 71-274.]**

(c) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality and name of the vessel, and the date, place, and amount of each payment for which refund is requested. The application shall be made within 1 year from date of the payment. A protest against a payment shall not be accepted as an application for its refund. **[TD 71-274.]**

(d) When the application is based upon a claim that more than five payments of regular tax at either the 2-cent or the 6-cent rate have been made during a tonnage year, the application shall be supported by a statement from the appropriate Customs officer at the port where the application is submitted and from the appropriate Customs officer at each port at which any claimed payment was made verifying the facts and showing in each case whether refunds have been authorized.

(e) The application shall include a certificate by the owner or by the owner's agent that payment of tonnage tax at the applicable rate has been or will be made for each entry of the vessel on a voyage on which that rate is applicable before the end of the current tonnage year, exclusive of any payment which has been refunded or which may be refunded as a result of such application. **[TD 71-274.]**

(f) The owner or operator of the vessel involved, or other party in interest, may file with the Regional Commissioner a petition addressed to the Commissioner of Customs for a review of the Regional Commissioner's decision on an application for refund of regular tonnage tax. Such petition shall be filed in duplicate within 30 days from the date of notice of the Regional Commissioner's decision, shall completely identify the case, and shall set forth in detail the exceptions to the Regional Commissioner's decision. When such a petition has been filed, the Regional Commissioner shall immediately transmit both copies thereof and the entire file to Headquarters, U.S. Customs Service, together with any comments he may desire to submit. (Section 26, 23 Stat. 59, as amended; 46 U.S.C. 8.) (80 Stat. 379, section 3, 5 U.S.C. 301) **[TD 71-274.]**

Landing and Delivery of Cargo

§ 4.30 Permits and special licenses for unlading and lading.

(a) Except as prescribed in paragraph (f), (g), or (k) of this section or in § 123.8 of this chapter and except in the case of a vessel exempt from entry or clearance under 19 U.S.C. 288[55] no passengers,[56] cargo,[57] baggage,[57] or other article[58] shall be unladen from a vessel which arrives directly or indirectly from any port or place outside the Customs territory of the United States or from a vessel which transits the Panama Canal and no cargo, baggage, or other article shall be laden[60] on a vessel destined to a port or place outside the Customs territory of the United States if Customs supervision of such lading is required,[61] until the district director shall have issued a permit or special license therefor on Customs Form 3171. **[TDs 50881, 51049, 53399, 54232; 3 Comp. Gen. 12; See CAM sec. 98(b)(2). TDs 52205, 52255, 53538, 70-121, 72-189, 73-27.]**

(b) Application for a permit or special license shall be made by the master, owner, or agent of the vessel on Customs Form 3171, and shall specifically indicate the type of service desired at that time, unless a term permit or term special license has been issued. Arrangements, in the case of a term permit or term special license, shall be made locally so that the proper Customs officer will be notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times they will be needed. An agent of a vessel may limit his application to operations involved in the entry and unlading of the vessel or to operations involved in its lading and clearance. Such limitation shall be specifically noted on the application. **[TDs 52491, 72-189.]**

(c) The request for a permit or a special license shall not be approved (previously issued term permits or special licenses shall be revoked) unless the carrier complies with the provisions of paragraphs (l) and (m) of this section regarding terminal facilities and employee lists, and the required cash deposit or bond,[62] on Customs Form 7567 or 7569, has been received. When a carrier has on file a bond on Customs Form 3587, no further bond shall be required solely by reason of the unlading or lading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries. Separate bonds shall be required if overtime services are requested by different principals. **[TDs 52491, 53461, 53626, 68-247, 72-189.]**

(d) Except as prescribed in paragraph (f) or (g) of this section, a separate application for a permit or special license shall be filed in the case of each arrival. The permit or special license shall not become effective until the master shall have made preliminary or formal entry or, in the case of vessels not required to enter, the master shall have reported the arrival of the vessel.

(e) Stevedoring companies and others concerned in lading or unlading merchandise, or in removing or otherwise securing it, shall ascertain that the applicable preliminary Customs requirements have been complied with before commencing such operation, since performance in the absence of such compliance render them severally liable to the penalties prescribed in section 453, Tariff Act of 1930,[59] even though they may not be responsible for taking the action necessary to secure compliance. **[TD 52204.]**

(f) The district director may issue a term permit on Customs Form 3171 for any period up to 1 year, but not longer than the period of the supporting bond, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage during official hours. **[TDs 53538, 55386, 68-247, 72-189.]**

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[55] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessels shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Commissioner of Customs may prescribe, notwithstanding any other provision of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[56] "If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of $500 for each such passenger so unladen." (Tariff Act of 1930, sec. 454; 19 U.S.C. 1454)

[57] "* * * After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by the collector as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage, until entry thereof is made." (Tariff Act of 1930, sec. 448(a); 19 U.S.C. 1448(a))

[58] Vessels arriving in the United States from foreign ports may retain on board, without the payment of duty, all coal and other fuel, supplies, ships' stores, sea stores, and the legitimate equipment of such vessels. Any such supplies, ships' stores, sea stores, or equipment landed and delivered from such vessel shall be considered and treated as imported merchandise: *Provided*, That bunker coal, bunker oil, ships' stores, sea stores, or the legitimate equipment of vessels belonging to regular lines plying between foreign ports and the United States, which are delayed in port for any cause, may be transferred under a permit by the collector and under customs supervision from the vessel so delayed to another vessel of the same line and owner, and engaged in the foreign trade, without the payment of duty thereon." (Tariff Act of 1930, sec. 446; 19 U.S.C. 1446).

The provisions of section 446, Tariff Act of 1930, do not apply to vessels of less than 5 net tons. (T.D. 45431)

[60] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forefeiture." (Tariff Act of 1930, section 453; 19 U.S.C. 1453)

[61] "No merchandise or baggage entered for transportation under bond or for exportation with the benefit of drawback, or other merchandise or baggage required to be laden under customs supervision, shall be laden on any vessel or vehicle at night or on Sunday or a holiday, except under special license therefor to be issued by the collector under the same conditions and limitations as pertain to the unlading of imported merchandise or merchandise being transported in bond." (Tariff Act of 1930, sec. 452, 19 U.S.C. 1452)

[62] "Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the act of February 13, 1911, as amended (U.S.C. 1952 edition, title 19 sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of such vessels or vehicles for a period not to exceed one year. * * *" (Tariff Act of 1930, section 451, as amended, 19 U.S.C. 1451)

[59] See footnote on page 29.

(g) The district director may issue a term special license on Customs Form 3171 for any period up to 1 year, but not longer than the period of the supporting bond, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage at night or on a Sunday or holiday when Customs supervision is required. (See § 24.16 of this chapter regarding pleasure vessels.) **[TDs 68-247, 72-189.]**

(h) A special license for the unlading or lading of a vessel at night or on a Sunday or holiday shall be refused by the district director if the character of the merchandise or the conditions or facilities at the place of unlading or lading render the issuance of such special license dangerous to the revenue. In no case shall a special license for unlading or lading at night or on a Sunday or holiday be granted except on the ground of commercial necessity. **[TD 72-189.]**

(i) The district director shall not issue a permit or special license to unlade cargo or equipment of vessels arriving directly or indirectly from any port or place outside the United States, except on compliance with one or more of the following conditions: **[TD 72-189.]**

(1) The merchandise shall have been duly entered and permits issued; or

(2) A vessel bond, on Customs Form 7567 or 7569, or cash deposit shall have been given; or **[TDs 46106, 72-189.]**

(3) The merchandise is to be discharged into the custody of the district director as provided for in section 490(b), Tariff Act of 1930.[63] **[TD 72-189.]**

(j) Bonds are not required under this section for vessels owned by the United States and operated for its account. **[TDs 49258, 50750.]**

(k) In the case of vessels of 5 net tons or over which are used exclusively as pleasure vessels and which arrive from any country, the district director in his discretion and under such conditions as he deems advisable may allow the required application for unlading passengers and baggage to be made orally, and may authorize his inspectors to grant oral permission for unlading at any time, and to grant requests on Customs Form 3171 for overtime services. **[TDs 53538, 68-247.]**

(l) A permit to unlade pursuant to this Part 4 or Part 6 of this chapter shall not be granted unless the district director determines that the applicant provides or the terminal at which the applicant will unlade the cargo provides (1) sufficient space, capable of being locked, sealed, or otherwise secured, for the storage immediately upon unlading of cargo whose weight-to-value ratio renders it susceptible to theft or pilferage and of packages which have been broken prior to or in the course of unlading; and (2) an adequate number of vehicles, capable of being locked, sealed, or otherwise secured, for the transportation of such cargo or packages between the point of unlading and the point of storage. A term permit to unlade shall be revoked if the district director determines subsequent to such issuance that the requirements of this paragraph have not been met. **[TD 71-39.]**

(m) A permit to unlade pursuant to this Part 4 or Part 6 of this chapter shall not be granted to an importing carrier, and a term permit to unlade previously granted to such a carrier shall be revoked, (1) if such carrier, within 30 days after the date of receipt of a written demand by the district director, does not furnish a written list of the names, addresses, social security numbers, and dates and places of birth of persons it employs in connection with the unlading, storage and delivery of imported merchandise; or (2) if, having furnished such a list, the carrier does not advise the district director in writing of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed in connection with the unlading, storage and delivery of imported merchandise within 10 days after such employment. If the employment of any such person is terminated, the carrier shall promptly advise the district director. For the purposes of this part, a person shall not be deemed to be employed by a carrier if he is an officer or employee of an independent contractor engaged by a carrier to load, unload, transport or otherwise handle cargo. (R.S. 2793, as amended, secs. 446, 448, 450–454, 490, 46 Stat. 713, 714, 715, as amended, 716, 726; 19 U.S.C. 288, 1446, 1448, 1450–1454, 1490) **[TD 71-39.]**

§ 4.31 Unlading or transshipment due to casualty.

(a) When any cargo or stores of a vessel have been unladen or transshipped at any place in the United States or Customs waters other than a port of entry because of accident, stress of weather, or other necessity, no penalty shall be imposed under section 453[64] or 586(a),[65] Tariff Act of 1930, if due notice is given to the district director at the port at which the vessel thereafter first arrives and satisfactory proof is submitted to him as provided for in section 586(f), Tariff Act of 1930, as amended.[66] The district director may accept the certificates of the master and two or more officers or members of the crew of the vessel, of whom the person next to the master in command shall be one, as proof that the unlading or transshipment was necessary by reason of unavoidable cause. **[TDs 6603, 53268.]**

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[63] "At the request of the consignee of any merchandise, or of the owner or master of the vessel, or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the collector after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made." (Tariff Act of 1930, section 490(b); 19 U.S.C. 1490(b))

[64] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, sec. 453; 19 U.S.C. 1453)

[65] "The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) to be unladen from such vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise and before he has received a permit to unlade, shall be liable to a penalty equal to twice the value of the merchandise but not less than $1,000, and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited." (Tariff Act of 1930, sec. 586(a), as amended; 19 U.S.C. 1586(a))

[66] "Whenever any part of the cargo or stores of a vessel has been unladen or transshipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transshipped shall, as soon as possible thereafter, notify the collector of the district within which such unlading or transshipment has occurred, or the collector within the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unlading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the collector is satisfied that the unlading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred." (Tariff Act of 1930, sec. 586(f), as amended, 19. U.S.C. 1586(f))

(b) The district director may then permit entry of the vessel and its cargo and permit the unlading of the cargo in such place in his district as he may deem proper. Unless its transportation has been in violation of the coastwise laws, the cargo may be cleared through Customs at the port where it is discharged or forwarded to the port of original destination under an entry for immediate transportation or for transportation and exportation, as the case may be. All regulations shall apply in such cases as if the unlading and delivery took place at the port of original destination. (Secs. 453, 586, 46 Stat. 716, 749, as amended; 19 U.S.C. 1453, 1586)

§ 4.32 Vessels in distress; landing of cargo.

(a) When a vessel from a foreign port arrives in distress at a port other than that to which it is destined, a permit to land merchandise or baggage may be issued if such action is necessary. Merchandise and baggage so unladen shall be taken into Customs custody and, if it has not been transported in violation of the coastwise laws, may be entered and disposed of in the same manner as any other imported merchandise or may be reladen without entry to be carried to its destination on the vessel from which it was unladen, subject only to charges for storage and safekeeping.

(b) A bond on Customs Form 7567 shall be given in an amount to be determined by the district director to insure the proper disposition of the cargo, whether such cargo be dutiable or free. (Sec. 449, 46 Stat. 714; 19 U.S.C. 1449) **[TD 47959.]**

§ 4.33 Diversion of cargo.

(a) *Unlading at other than original port of destination.* A vessel may unlade cargo or baggage at an alternative port of entry to the port of original destination if: **[TD 77-255.]**

(1) It is compelled by any cause to put into the alternative port and the district director to the port issues a permit for the unlading of cargo or baggage; or

(2) As a result of an emergency existing at the port of destination, the district director authorizes the vessel to proceed in accordance with the residue cargo bond procedure to the alternative port. The owner or agent of the vessel shall apply for such authorization in writing, stating the reasons and agreeing to hold the district director and the Government harmless for the diversion.

(b) *Disposition of cargo or baggage at emergency port.* Cargo and baggage unladen at the alternative port under the circumstances set forth in paragraph (a) of this section may be: **[TD 77-255.]**

(1) Entered in the same manner as other imported cargo or baggage;

(2) Treated as unclaimed and stored at the risk and expense of its owner; or

(3) Reladen upon the same vessel without entry, for transportation to its original destination.

(c) *Substitution of ports of discharge on manifest.* After entry, the Cargo Declaration, Customs Form 1302, of a vessel may be changed at any time to permit discharge of manifested cargo at any domestic port in lieu of any other port shown on the Cargo Declaration, if: **[CIE 3244, 4/22/29 TDs 47959, 51610; 53101, 77-255.]**

(1) A written application for the diversion is made on the amended Cargo Declaration by the master, owner, or agent of the vessel to the district director of the port where the vessel is located, after entry of the vessel at that port;

(2) An amended Cargo Declaration, under oath, covering the cargo, which it is desired to divert, is furnished in support of the application and is filed in such number of copies as the district director shall require for local Customs purposes; and

(3) The certified traveling manifest is not altered or added to in any way by the master, owner, or agent of the vessel. When an application under paragraph (c)(1) of this section is approved, the district director shall securely attach an approved copy of the amended manifest to the traveling manifest and shall send one copy of the amended Cargo Declaration to the district director at the port where the vessel's bond was filed.

(d) *Retention of cargo on board for later return to the United States.* If, as the result of a strike or other emergency at a United States port for which inward foreign cargo is manifested, it is desired to retain the cargo on board the vessel for discharge at a foreign port but with the purpose of having the cargo returned to the United States, an application may be made by the master, owner, or agent of the vessel to amend the vessel's Cargo Declaration, Customs Form 1302, under a procedure similar to that described in paragraph (c) of this section, except that a foreign port shall be substituted for the domestic port of discharge. If the application is approved, it shall be handled in the same manner as an application filed under paragraph (c) of this section. However, before approving the application, the district director is authorized to require such bond as he deems necessary to insure that export control laws and regulations are not circumvented. **[TDs 53101, 77-255, TD 47959.]**

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

(a) *Prematurely landed cargo.* Upon receipt of a satisfactory written application from the owner or agent of a vessel establishing that cargo was prematurely landed and left behind by the importing vessel through error or emergency, the district director may permit inward foreign cargo remaining on the dock to be reladen on the next available vessel owned or chartered by the owner of the importing vessel for transportation to the destination shown on the Cargo Declaration, Customs Form 1302, of the first vessel, provided the importing vessel actually entered the port of destination of the prematurely landed cargo. Unless so forwarded within 30 days from the date of landing, the cargo shall be appropriately entered for Customs clearance or for forwarding in bond; otherwise, it shall be sent to general order as unclaimed. If the merchandise is so entered for Customs clearance at the port of unlading, or if it is so forwarded in bond, other than by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel, representatives of the importing vessel shall file at the port of unlading a Cargo Declaration in duplicate listing the cargo. The district director shall retain the original and forward the duplicate to the district director at the orginally intended port of discharge. **[TDs 52965, 53648, 77-255.]**

(b) *Overcarried cargo.* Upon receipt of a satisfactory written application by the owner or agent of a vessel establishing that cargo was not landed at its destination and was overcarried to another domestic port through error or emergency, the district director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.[67a] **[TDs 73-175, 77-255.]**

(c) *Inaccessibly-stowed cargo.* Cargo so stowed as to be inaccessible upon arrival at destination may be retained on board, carried forward to another domestic port or ports, and returned to the port of destination in the importing vessel or in another vessel owned or chartered by the owner of the importing vessel in the same manner as other overcarried cargo. **[TD 77-255.]**

(d) *Application for forwarding cargo.* When it is desired that prematurely landed cargo, overcarried cargo, or cargo so stowed as to be inaccessible, be forwarded to its destination by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel in accordance with paragraph (a), (b), or (c) of this section, the required application shall be filed with the local district director at the port of premature landing or overcarriage by the owner or agent of the vessel. The application shall be supported by a Cargo Declaration, Customs Form 1302, in such number of copies as the district director may require. Whenever practicable, the application shall be made on the face of the Cargo Declaration below the description of the merchandise. The application shall specify the vessel on which the cargo was imported, even though the forwarding to destination is by another vessel owned or chartered by the owner of the importing vessel, and all ports of departure and dates of sailing of the importing vessel. The application shall be stamped and signed to show that it has been approved. **[TDs 50683, 52040, 52965, 53648, 77-255.]**

(e) *Manifesting prematurely landed or overcarried cargo.* One copy of the Cargo Declaration, Customs Form 1302, shall be certified by Customs for use as a substitute traveling manifest for the prematurely landed or overcarried cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If the application for forwarding is made on the Cargo Declaration, the new substitute traveling manifest shall be stamped to show the approval of the application. If the application is on a separate document, a copy thereof, stamped to show its approval, shall be attached to the substitute traveling manifest. An appropriate cross-reference shall be placed on the original traveling manifest to show that the vessel has one or more substitute traveling manifests. A permit to proceed endorsed on a General Declaration, Customs Form 1301, issued to the vessel transporting the prematurely landed or overcarried cargo to its destination shall make reference to the nature of such cargo, identifying it with the importing vessel. **[TDs 52965, 63648, 71-169, 77-255.]**

(f) *Residue cargo procedure.* A vessel with prematurely landed or overcarried cargo on board shall comply upon arrival at all domestic ports of call with all the requirements of Part 4 relating to foreign residue cargo for domestic ports. The substitute traveling manifest, carried forward from port to port by the oncarrying vessel, shall be finally surrendered at the port where the last portion of the prematurely landed or overcarried cargo is discharged. **[TDs 71-169, 77-255.]**

(g) *Cargo undelivered at foreign port and returned to the United States.* Merchandise shipped from a domestic port, but undelivered at the foreign destination and returned, shall be manifested as "Undelivered—to be returned to original foreign destination," if such a return is intended. The district director may issue a permit to retain the merchandise on board, or he may, upon written application of the steamship company, issue a permit on a Delivery Ticket, Customs Form 6043, allowing the merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the vessel bond. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted. **[TDs 52965, 53648, 77-255.]**

(h) Merchandise shipped from a domestic port, but undelivered at the foreign destination and brought back, shall be manifested as "Undelivered—To be returned to original foreign destination," if such return is intended. The director may issue a permit to retain such merchandise on board, or he may, upon written application of the steamship company issue a permit on Customs Form 6043 allowing such merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the vessel bond. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted. **[TD 68-141.]**

§ 4.35 Unlading outside port of entry.

(a) Upon written application from the interested party, the district director concerned, if he considers it necessary, may permit any vessel laden with merchandise in bulk to proceed, after entry, to any place outside the port where the vessel entered which such district director may designate for the purpose of unlading such cargo.[68] **[TD 52124.]**

(b) In such case a deposit of a sum sufficient to reimburse the Government for the compensation, travel, and subsistence expenses of the officers detailed to supervise the unlading and delivery of the cargo may be required by the district director. (Sec. 447, 46 Stat. 714; 19 U.S.C. 1447) **[TDs 37128, 50053.]**

[67a] See § 141.69(c) of this chapter for the conditions under which such merchandise and goods removed from a port of intended entry under these or certain other circumstances may subsequently be cleared under a consumption entry which had been filed therefor before the merchandise was removed from the port of intended entry.

[68] "It shall be unlawful * * * to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided,* * * * That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unlading such cargo, under the supervision of customs officers if the collector shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest." (Tariff Act of 1930, sec. 447; 19 U.S.C. 1447)

§ 4.36 Delayed discharge of cargo.

(a) When pursuant to section 457, Tariff Act of 1930,[69] customs officers are placed on a vessel which has retained merchandise on board more than 25 days after the date of the vessel's arrival, their compensation and subsistence expenses shall be reimbursed to the Government by the owner or master.

(b) The compensation of all Customs officers and employees assigned to supervise the discharge of a cargo within the purview of section 458, Tariff Act of 1930,[70] after the expiration of 25 days after the date of the vessel's entry shall be reimbursed to the Government by the owner or master of the vessel.

(c) When a cargo within the purview of the proviso to the first subdivision of section 431, Tariff Act of 1930[71] is manifested "for orders" upon the arrival of the vessel, no amendment of the manifest to show another port of discharge shall be permitted after 15 days after the date of the vessel's arrival, except as provided for in § 4.33.

(d) All reimbursements payable in accordance with this section shall be paid or secured to the district director before clearance is granted to the vessel. (R.S. 4206, secs. 431, 457, 458, 46 Stat. 710, as amended, 716, 717; 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. 100)

§ 4.37 Lay order; general order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain on the wharf or pier until 5 p.m. on the fifth working day after the day the vessel was entered.[72] At the expiration of such period, any merchandise or baggage so remaining shall be deposited in the public stores or a general-order warehouse, except that, at the written request of the owner, agent, or master of the vessel, filed in duplicate on Customs Form 3189, and at the risk of the owner of the vessel, the district director may issue a lay order allowing such merchandise or baggage to remain on the wharf or pier properly protected for a further period, which shall be specified in the order. The application for an initial lay order to allow the merchandise to remain on the wharf or pier beyond the fifth working day may be included, if the district director approves, in the space provided therefor in the application made on Customs Form 3171 for a permit to lade or unlade. **[TDs 40212, 53461.]**

(b) All merchandise or baggage unladen from a vessel for which no permit has been received before expiration of the original 5-day period, or extension thereof, shall be sent to the public stores or a general-order warehouse and held as unclaimed at the risk and expense of the consignee or owner.[73] **[TD 53461.]**

(c) Merchandise unladen after the expiration of the 25-day period prescribed in section 457, Tariff Act of 1930, for which no Customs permit has been presented to the discharging inspector, shall be sent forthwith by the district director to the public stores or a general-order warehouse and stored at the expense and risk of the owner of such merchandise.[73]

(d) Merchandise taken into the custody of the district director pursuant to section 490(b), Tariff Act of 1930,[74] shall be sent to the public stores or a general-order warehouse after 1 day after the day the vessel was entered, to be held there at the risk and expense of the owner.

(e) Any merchandise which is apt to decrease in weight after importation shall be weighed before it is deposited in the public stores or a general-order warehouse.

(f) Whenever, pursuant to section 457 or 490, Tariff Act of 1930, as amended (19 U.S.C. 1457, 1490), the district director shall take possession of a cargo which is unclaimed and not unladen, he shall require, as a condition for granting a permit to discharge, that the vessel be removed at the expense of the owner to the wharf, pier, or other place most convenient to the general order stores. (R.S. 251, as amended, secs. 448, 457, 490, 624, 46 Stat. 714, 716, 726, 759; (19 U.S.C. 66, 1448, 1457, 1490, 1624)) **[TD 74-114.]**

§ 4.38 Release of cargo.

(a) No imported merchandise shall be released from Customs custody until a permit to release such merchandise has been granted. Such permit shall be issued by the district director only after the merchandise has been entered and, except as provided for in § 141.102(d) or Part

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[69] "Whenever any merchandise remains on board a vessel or vehicle from a foreign port more than twenty-five days after the date on which report of said vessel or vehicle was made, the collector may take possession of such merchandise and cause the same to be unladen at the expense and risk of the owners thereof, or may place one or more inspectors or other customs officers on board of said vessel or vehicle to protect the revenue. The compensation and expenses of any such inspector or customs officer for subsistence while on board of such vessel or vehicle shall be reimbursed to the Government by the owner or master of such vessel or vehicle." (Tariff Act of 1930, sec. 457; 19 U.S.C. 1457)

[70] "The limitation of time for unlading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officers whose services are required in connection with the unlading shall, for every day consumed in unlading in excess of twenty-five (25) days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel." (Tariff Act of 1930, sec. 458; 19 U.S.C. 1458)

[71] "* * * the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides, dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo 'for orders,' and within 15 days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered. * * *" (Tariff Act of 1930, sec. 431; 19 U.S.C. 1431)

[72] "* * * After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by the collector, as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage until entry thereof is made." (Tariff Act of 1930, sec. 448(a); 19 U.S.C. 1448(a)).

[73] "Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of failure to pay the estimated duties, or whenever, in the opinion of the collector, entry of such merchandise cannot be made for want of proper documents or other cause, or whenever the collector believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production." (Tariff Act of 1930, sec. 490(a); 19 U.S.C. 1490(a))

[74] See footnote 63, § 4.30.

142 of this chapter, the duties thereon, if any, have been estimated and paid. **[TDs 52773, 73-175.]**

(b) When packages of merchandise bear marks or numbers which differ from those appearing on the Cargo Declaration, Customs Form 1302, of the importing vessel for the same packages and the importer or a receiving bonded carrier, with the concurrence of the importing carrier, makes application for their release under such marks or numbers, either for consumption or for transportation in bond under an entry filed therefor at the port of discharge from the importing vessel, the district director may approve the application upon condition that (1) the contents of the packages be identified with an invoice or transportation entry as set forth below and (2) the applicant furnish at his own expense any bonded cartage or lighterage service which the granting of the application may require. The application shall be in writing in such number of copies as may be required for local Customs purposes. Before permitting delivery of packages under such an application, the district director shall cause such examination thereof to be made as will reasonably identify the contents with the invoice filed with the consumption entry. If the merchandise is entered for transportation in bond without the filing of an invoice, such examination shall be made as will reasonably identify the contents of the packages with the transportation entry. **[TD 77-255.]**

(c) If the district director determines that, in a port or portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall require as a condition to the granting of a permit to release imported merchandise that the importer or his agent present to the carrier or his agent a fully executed pickup order in substantially the following format, in triplicate, to obtain delivery of any imported merchandise: **[TD 71-39.]**

Pickup Order

______________________ is authorized to pick up the merchandise indicated below

(Trucker name)

COD ___ Bank release ___ Collect ___

Broker Name and Authorized Signature (if applicable)

Marks and Numbers	Pcs.	Description of goods	Entry No.	Importing carrier and AWB Number or B/L Number	Signature and date of receiving carrier	Remarks

Delivered quantities verified ....
Customs officer badge No.
....
Date

The pickup order shall contain a duly authenticated customhouse broker's signature, unless it is presented by a person properly identified as an employee or agent of the ultimate consignee. When delivered quantities are verified by a Customs officer, he shall certify all copies of the pickup order, returning one to the importer or his agent and two to the carrier making delivery.

(d) When the provisions of paragraph (c) of this section are invoked by the district director and verification of delivered quantities by Customs is required, a permit to release merchandise shall be effective as a release from Customs custody at the time that the delivery of the merchandise covered by the pickup order into the physical possession of a subsequent carrier or an importer or the agent of either is completed under the supervision of a Customs officer, and only to the extent of the actual delivery of merchandise described in such pickup order as verified by such Customs officer. (Secs. 448, 505, 46 Stat. 714, 732; 19 U.S.C. 1448, 1505) **[TD 71-39.]**

§ 4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.

(a) The provisions of § 4.30 relating to unlading under a permit on Customs Form 3171 are applicable to the unlading of articles, other than cargo or baggage, which have been laden on a vessel outside the Customs territory of the United States, regardless of the trade in which the vessel may be engaged at the time of unlading, except that such provisions do not apply to such articles which have already been entered. **[TDs 21324, 22433, 24340, 24497, 26864, 28321, 28855, 35824, 39340, 40934, 45231, 45690 (5), 46062, 50263 (1), 50380 (5), 53336.]**

(b) Any articles other than cargo or baggage landed for delivery for consumption in the United States shall be treated in the same manner as other imported articles.[75] A notation as to the landing of such articles, together with the number of the entry made therefor, shall be made on the vessel's store list, but such notation shall not subject the articles to the requirement of being included in a post entry to the manifest. **[TD 53336.]**

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[75] See footnote 58, § 4.30.

(c) Bags or dunnage constituting equipment of a vessel may be landed temporarily and reladen on such vessel under Customs supervision without entry.

(d) Articles claimed to be sea or ships' stores which are in excess of the reasonable requirements of the vessel on which they are found shall be treated as cargo of such vessel.

(e) Under section 446, Tariff Act of 1930, district directors may permit narcotic drugs, except smoking opium, in reasonable quantities and properly listed as medical stores to remain on board vessels if satisfied that such drugs are adequately safeguarded and used only as medical supplies.

(f) Application for permission to transfer bunkers, stores or equipment as provided for in the proviso to section 446, Tariff Act of 1930, shall be made and the permit therefor granted on Customs Form 3171. (Secs. 432, 446, 46 Stat. 710, 713; 19 U.S.C. 1432, 1446)

§ 4.40 Equipment, etc., from wrecked or dismantled vessels.

Ship's or sea stores, supplies, and equipment of a vessel wrecked either in the waters of the United States or outside such waters, on being recovered and brought into a United States port, and like articles landed from a vessel dismantled in a United States port shall be subject to the same Customs treatment as would apply if the articles were landed from a vessel arriving in the ordinary course of trade. Parts of the hull and fittings recovered from a vessel which arrived in the United States in the course of navigation and was wrecked in the waters of the United States or was dismantled in this country are free of duties and import taxes, but if such articles are recovered from vessels outside the waters of the United States and brought into a United States port, they shall be treated as imported merchandise. (Sec. 446, 46 Stat. 713; 19 U.S.C. 1446) **[TDs 19181, 19220, 22433.]**

§ 4.41 Cargo of wrecked vessel.

(a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of a Cargo Declaration, Customs Form 1302, to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him), or the salvor of the merchandise shall make written application for permission to enter the wrecked cargo, and any such applicant shall be regarded as the consignee of the merchandise for Customs purposes.[76] **[TDs 7554, 8028, 9598, 77-255.]**

(b) All such merchandise shall be taken into possession by the district director of the port in which it shall first arrive and be retained in his custody pending entry. If it is not entered by the person entitled to make entry, or is not disposed of pursuant to court order, it shall be subject to sale as unclaimed merchandise. **[TD 23155.]**

(c) If such merchandise is from a vessel which has been sunk in waters of the United States for 2 years or more and has been abandoned by the owner, any person who has salvaged the cargo shall be permitted to enter the merchandise in the district in which the vessel was wrecked free of duty upon the facts being established to the satisfaction of the district director at the port of entry.[77] Any other such merchandise is subject to the same tariff classification as like merchandise regularly imported in the ordinary course of trade. **[TD 11498.]**

(d) If the merchandise is libeled for salvage,[78] the district director shall notify the United States attorney of the claim of the United States for duties, and request him to intervene for such duties.

Passenger on Vessels

§ 4.50 Passenger lists.

(a) The master of every vessel arriving at a port of the United States from foreign territory and required to make entry, except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connections or tributary waters,[79] shall submit a passenger and crew list as required by § 4.7(a). If the vessel is arriving from noncontiguous foreign territory and is carrying steerage passengers, the additional information respecting such passengers required by Customs and Immigration Form I-418 shall be included therein. **[TDs 51107, 51547, 51901, 54267, 54820, 71-169.]**

(b) A passenger within the meaning of this part, except § 4.51, is any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business. (Sec. 9, 22 Stat. 189, as amended, sec. 431, 46 Stat. 710, as amended; 19 U.S.C. 1431, 46 U.S.C. 158) **[BNGL 117, 5/20/16.]**

Foreign Clearances

§ 4.60 Vessels required to clear.

(a) Except as otherwise provided for in this section, every vessel bound for a foreign port or ports shall be cleared[90] for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

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[76] "* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees."* * * (Tariff Act of 1930, sec. 483; 19 U.S.C. 1483)

[77] "Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 310; 19 U.S.C. 1310)

[78] Salvors have an uncertain interest in the goods salved, dependent upon the decree of a competent tribunal, and have a presumptive right without such decree to possession of merchandise salved by them from abandoned wrecks. The salvors are entitled in either case to entry of derelict or wrecked goods. (Secs. 310, 483, 46 Stat. 690, 721; 19 U.S.C. 1310, 1483)

[79] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882)

(b) The following vessels are not required to clear:

(1) A licensed yacht or undocumented American pleasure vessel not engaged in trade nor in any way violating the Customs or navigation laws of the United States.[90] **[TD 53606.]**

(2) Any vessel under frontier enrollment and license which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (See § 4.82.)

(3) A vessel exempted from entry by section 441, Tariff Act of 1930.[92] (See § 4.5.) **[TD 53336.]**

(4) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea. **[TD 53538.]**

(c) Vessels which merely transit the Panama Canal without transacting any business there shall not be required to be cleared because of such transit. **[TD 79-276.]**

(d) In the event that departure is delayed beyond the second day after clearance, the delay shall be reported within 72 hours after clearance to the district director who shall note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor shall be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers shall be surrendered. **[TD 51049.]**

(e) No vessel shall be cleared for the high seas.[93]

§ 4.61 Requirements for clearance.

(a) Application for clearance for a vessel intending to depart for a foreign port shall be made by filing the oath; Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Clearance shall be granted on Customs Form 1378. **[Bas v. Steele, Fed. Case No. 1088. TDs 830, 2795, 39308, 50462, 51912, 53775, 53799, 71-169.]**

(b) Before clearance is granted to a vessel bound to a foreign port, the district director shall verify compliance with the requirements in respect of the following matters which are more fully stated in the provisions of law or of these regulations indicated in the list: **[MCL 25/42, TD's 52675, 68-217, 69-210, 70-213, 73-250, 77-255.]**

(1) Accounting for inward cargo (§ 4.62).

(2) Outward Cargo Declarations; shippers export declarations (§ 4.63).

(3) Documentation (§ 4.64).

(4) Verification of nationality and tonnage (§ 4.65).

(5) Verification of inspection (§ 4.66).

(6) Inspection under State laws.[94]

(7) Closed ports or places (§ 4.67).

(8) Crew; passengers (§ 4.68).

(9) Shipping articles and enforcement of Seamen's Act (§ 4.69).

(10) Medicine and slop chests.[95]

(11) Load line regulations (§ 4.65a). **[TDs 74-39, 75-133.]**

(12) Carriage of United States securities, etc.[97]

(13) Carriage of mail.[98]

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[90] "The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof: whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht or an undocumented American pleasure vessel not engaged in any trade nor in any way violating the customs or navigation laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 or less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (see stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: * * *" (46 U.S.C. 91)

"Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or pursuer of such vessel; such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U.S.C. 91a) (For clearance via domestic ports, see § 4.87).

[91] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of the Treasury may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U.S.C. 288)

[92] See footnote 5, § 4.3.

[93] Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc., without requiring formal clearance. (R.S. 2793, as amended, 4197, as amended; 19 U.S.C. 288, 46 U.S.C. 91, 111, 123)

[94] The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs." (46 U.S.C. 97)

[95] See 46 U.S.C. 666, 669, 670, and 671.

[96] [Reserved]

[97] "All vessels belonging to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities, as the Government of the United States or any department thereof, or any minister, consul, vice consul, or other agent of the United States abroad, shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees, on arriving at the port of destination; and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business." (46 U.S.C. 98)

[98] See § 4.63(b), 18 U.S.C. 1724 and 39 U.S.C. 496.

(14) Pratique (§ 4.70).

(15) Inspection of vessels carrying livestock (§ 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (§ 4.72).

(17) Tobacco seed and plants.[99]

(18) Neutrality exportation of arms and munitions (§ 4.73).

(19) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States.[100]

(20) Orders restricting shipping (§ 4.74).

(21) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (Sec. 4.14).

(22) Illegal discharge of oil (§ 4.66a).

(23) Attached or arrested vessel.[100a]

(24) Immigration laws.[100b]

(c) A new vessel built in the United States for foreign account shall be cleared under a certificate of record, Customs Form 1316, in lieu of a marine document.

(d) Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel.[101]

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration, Customs Form 1302, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12.) **[TDs 53336, 77-255.]**

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see section 4.87(b)), unless there has been filed with the district director at the port from which clearance is being obtained (1) a Cargo Declaration, Customs Form 1302, or a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, either form with copies of bills of lading or equivalent commercial forms relating to all cargo encompassed by the manifest attached thereto (i.e. "with attachments"), together with a properly executed Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, and such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or (2) an incomplete Cargo Declaration as provided for in § 4.75. **[TD's 33557(18), 38410, 53399, 55646, 56188, 71-169, 74-97, 77-255, 81-19.]**

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see § § 30.39 and 30.50-30.57, Title 15, Code of Federal Regulations) where the particular exemption is provided. Where shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required. **[TD's 57846(4), 53893, 68-172, 71-169, 77-255, 81-19.]**

(c) The list of cargo may be shown on bills of lading, cargo lists, or other commercial forms: *Provided*, That: **[TD's 53893, 71-169, 77-255, 81-19.]**

(1) The Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, is completely executed except for particulars as to cargo;

(2) The commercial forms are securely attached to the Cargo Declaration in such manner as to constitute one document;

(3) The commercial forms are incorporated by a suitable reference on the face of the Cargo Declaration such as "Cargo as per attached commercial forms;" and

(4) There is shown on the face of each such commercial form the information required by the Cargo Declaration for the cargo covered by that form.

(d) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (c) of this section shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation. **[TD's 55876, 71-169, 77-255, 81-19.]**

(e) Customs officers shall accept a Cargo Declaration, Customs Form 1302 (with attachments) or 1302-A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper. **[TD's 38410, 71-169, 77-255, 81-19.]**

§ 4.64 Documentation.

No clearance shall be granted to any vessel of the United States bound to a foreign port or place[102] unless it is under register or frontier enrollment and license.

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[99] "It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permit shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only." (7 U.S.C. 516)

[100] "Previous to a clearance being granted to any vessel, outward bound, the legal fees which shall have accrued on such vessel shall be paid at the offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before a clearance is granted." (46 U.S.C. 100)

[100a] See Federal Rules of Civil Procedure, Supplemental Rule (Admiralty and Maritime) E(4)(b) (28 U.S.C. Appendix).

[100b] See 8 U.S.C. 1221, 1223, 1227, 1253, 1281, 1283-1286, 1322, and 1323; 8 C.F.R. 280 (CRA 17-18-A).

[101] "It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel." (22 U.S.C. 454a) (Secs. 1-9, 49 Stat. 886-891, as amended, sec. 1-12, 87 Stat. 418-421 (46 U.S.C. 86-86i, 88-88i, 100))

[102] A vessel of the United States may be cleared for Guantanamo Bay Naval Station under enrollment and license or license. (R.S. 4337; 46 U.S.C. 278) **[TD 79-276.]**

§ 4.65 Verification of nationality and tonnage.

The nationality and tonnage of a vessel shall be verified by examination of its marine document. If such examination discloses that insufficient tonnage tax was collected on entry of the vessel, no clearance shall be granted until the deficiency is paid.

§ 4.65a Load lines.

(a) If a district director of Customs is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel engaged in the foreign trade under the International Voyage Load Line Act of 1973, clearance shall not be granted until the order is withdrawn. **[TD 75-133.]**

(b) If a district director of Customs issues a detention order under the Coastwise Load Line Act, 1935, as amended, or is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel under the aforesaid Act, clearance shall not be granted until the order is withdrawn. (Secs. 1-9, 49 Stat. 888-891, as amended, secs. 1-12, 87 Stat. 418-421 (46 U.S.C. 86-86i, 88-881))

§ 4.66 Verification of inspection.

(a) No clearance shall be granted unless the district director is satisfied that a proper certificate of inspection is in force and the vessel is in compliance with such certificate, if the vessel is— **[TDs 5740, 56173.]**

(1) A vessel of the United States required to be inspected as specified in Title 46, Code of Federal Regulations. **[TD 69-266.]**

(2) A foreign vessel carrying passengers from the United States.

(b) In the case of vessels of foreign nations which are signatories of the International Convention for the Safety of Life at Sea, 1948, carrying passengers from the United States, an unexpired Certificate of Examination for Foreign Passenger Vessel, Form CG-989, or an unexpired Certificate for Foreign Vessel to Carry Persons in Addition to Crew, Form CG-3463, issued by the United States Coast Guard, may be accepted as evidence that a proper certificate of inspection is in force and the vessel is in compliance with such certificate. **[TDs 53390, 56173.]**

(c) In the case of vessels of the United States subject to inspection proceeding to another port for repairs, a valid Permit to Proceed to Another Port for Repairs, Form CG-948, issued by the United States Coast Guard, shall be accepted in lieu of the certificate of inspection required by this section. (R.S. 4197, as amended, 4496; 46 U.S.C. 91, 494) **[TD 56173.]**

§ 4.66a Illegal discharge of oil and hazardous substances.

If a district director receives a request from an officer of the U.S. Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for discharging oil or a hazardous substance into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in quantities determined to be harmful by appropriate authorities, such clearance shall not be granted until the district director is informed that a bond or other surety satisfactory to the Coast Guard has been filed. (Sec. 2, 86 Stat. 862, *et seq.*, as amended; R.S. 4197, as amended (33 U.S.C. 1321, 46 U.S.C. 91)) **[TD 70-213, 82-28.]**

§ 4.66b Pollution of coastal and navigable waters.

(a) If any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters or any tributary of any navigable waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), or oil or a hazardous substance is being or has been discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1321), he shall promptly furnish to the district director a full report of the incident, together with the names of witnesses and, when practicable, a sample of the material discharged from the vessel in question. **[TDs 72-211, 73-18, 82-28.]**

(b) The district director shall forward this report immediately, without recommendation, to the district commander of the Coast Guard district concerned and a copy of such report shall be furnished to Headquarters, U.S. Customs Service. (30 Stat. 1152; sec. 2, 86 Stat. 862, *et seq.*, as amended (33 U.S.C. 407, 1321)) **[TDs 73-18, 82-28.]**

§ 4.67 Closed ports or places.

No foreign vessel shall be granted a clearance or permit to proceed to any port or place from which such vessels are excluded by orders or regulations of the United States Navy Department except with the prior approval of that Department. **[TD 49546.]**

§ 4.68 Crew; passengers.

(a) No vessel to which R.S. 4573 applies shall be granted final clearance for a foreign port or a whaling voyage until a crew list is presented to the district director in duplicate on Customs and Immigration Form I-418. The district director shall certify the duplicate copy and return it to the master. **[BMIN/BM 441/42. TDs 53876, 54267.]**

(b) No vessel shall be granted a clearance while it has on board any citizen of the United States except in accordance with the rules and regulations prescribed by the Secretary of State pursuant to Proclamation 2523 issued by the President on November 14, 1941 (3 CFR, 1943 Cum. Supp.).

(c) No vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports shall be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid certificates issued by the Federal Maritime Commission evidencing compliance with sections 2 and 3 of Public Law 89-777 (46 U.S.C. 817d, 817e). (R.S. 4573, secs. 2, 3, 80 Stat. 1356, 1357; 46 U.S.C. 674, 817d, 817e) (80 Stat. 379; 5 U.S.C. 301) **[TD 67-214.]**

§ 4.69 Shipping articles and enforcement of Seamen's Act.

No vessel of the United States bound for a foreign port outside the British North American possessions, the West Indies, and Mexico shall be granted final clearance until there has been presented to the district director at the port of final departure the shipping articles of the vessel executed before a shipping commissioner on Coast Guard Form 705, 705-A, or 705-B; nor shall any vessel, bound for a foreign port, be granted final clearance until the district director is satisfied that there has been full compliance with the pertinent requirements of sections 11 and 13 of the Seamen's Act of March 4, 1915 (46 U.S.C. 599, 672), and the Coast Guard regulations issued thereunder, relating to allotments of wages, the language test, and the crew.

§ 4.70 Pratique.

No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service unless it has been issued a certificate of free pratique or has been remanded to another port in the United States. **[TD 51912.]**

§ 4.71 Inspection of livestock.

A proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats. (9 CFR pt. 91). **[TD 79-32.]**

§ 4.72 Inspection of meat, meat-food products, and inedible fats.

(a) No clearance shall be granted to any vessel carrying meat or meat-food products, as defined and classified by U.S. Department of Agriculture, Food Safety and Quality Service, Meat and Poultry Inspection until there have been filed with the district director such copies of export certificates concerning such meat or meat-food products as are required by the pertinent regulations of the U.S. Department of Agriculture, Food Safety and Quality Service, Meat and Poultry Inspection (9 CFR, Part 322). **[TDs 51912, 55247, 78-99]**

(b) No clearance shall be granted to any vessel carrying tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats for export from the United States, which has not been inspected, passed, and marked by the United States Department of Agriculture, unless the district director is furnished with a certificate by the exporter that the article is inedible. **[TD 53399.]**

§ 4.73 Neutrality; exportation of arms and munitions.

(a) Clearance shall not be granted to any vessel if the district director has reason to believe that her departure or intended voyage would be in violation of any provision of the Neutrality Act of 1939 or other neutrality law of the United States,[104] or of any regulation or instruction issued pursuant to any such law. **[TDs 34695, 34899, 35205, 39056, 43019, 48525.]**

(b) The district director shall refuse clearance for and detain any vessel manifestly built for warlike purposes and about to depart from the United States with a cargo consisting principally of arms and munitions of war[105] when the number of men intending to sail or other circumstances render it probable that the vessel is intended to commit hostilities against the subjects, citizens, or property of any foreign country, with which the United States is at peace, until the decision of the President thereon is received, or until the owners shall have given bond or security in double the value of the vessel and its cargo that she will not be so employed.

(c) A district director shall promptly communicate all the facts to Headquarters, U.S. Customs Service if he learns while the United States is at peace that any vessel of a belligerent power which has arrived as a merchant vessel is altering, or will attempt to alter, her status as a merchant vessel so as to become an armed vessel or an auxiliary to armed vessels of a foreign power. **[TDs 34693, 34811.]**

(d) If a district director has reason to believe during the existence of a war to which the United States is not a party that any vessel in his district is about to carry arms, munitions, supplies, dispatches, information, or men to any warship or tender or supply ship of a belligerent nation, he shall withhold the clearance of such vessel and report the facts promptly to Headquarters, U.S. Customs Service.

§ 4.74 Transportation orders.

Clearance shall not be granted to any vessel if the district director has reason to believe that her departure or intended voyage would be in violation of any provision of any transportation order, regulation, or restriction issued under authority of the Defense Production Act of 1950 (50 U.S.C. App. 2061-2066). (R.S. 4197, as amended; 46 U.S.C. 91) **[TDs 52675, 53336, 55876.]**

§ 4.75 Incomplete cargo declaration; incomplete export declarations; bond.

(a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the district director a complete Cargo Declaration, Customs Form 1302 or 1302-A (see § 4.63)[106] or all required shippers' export declarations,[107] the district director may accept in lieu thereof an incomplete manifest on the General Declaration, Customs Form 1301, if there is on file in his office a bond on Customs Form 7567 or Customs Form 7569 executed by the vessel owner or other person as attorney in fact of the vessel owner. The legend, "This incomplete Cargo Declaration is filed in accordance with § 4.75, Customs Regulations," shall be inserted in item 16 of the General Declaration. The form shall be appropriately modified to indicate that it is an incomplete Cargo Declaration, and the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)) shall be executed. **[TDs 5339, 55646, 55876, 71-169, 74-284, 77-255.]**

(b) Not later than the fourth business day after clearance[108] from each port in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the district director at each port a complete Cargo Declaration, Customs Form 1302 or 1302-A, in accordance with § 4.63 of the cargo laden at such port together with duplicate copies of all required shippers' export declarations for such cargo and a General Declaration on Customs Form 1301. The oath of the master or agent on the Master's Oath on Entry of Vessel in

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[104] See 18 U.S.C. 961-967 and 22 U.S.C. 441-457.

[105] Clearance for vessel shall not be denied for the sole reason that her cargo contains contraband of war.

[106] See 46 U.S.C. 91.

[107] For regulations prescribing the period for carriers to file reports and penalties for untimely filing, see 15 C.F.R. 30.24.

[108] The statutory grace period of 4 days for filing the complete manifest and missing export declarations begins to run on the first day (exclusive of any day on which the customhouse is not open for marine business) following the date on which clearance is granted.

Foreign Trade, Customs Form 1300 (see § 4.63(a)) shall be properly executed before acceptance. **[TD 79-255.]**

(c) During any period covered by a finding by the President under section 1 of the Act of June 15, 1917, as amended (50 U.S.C. 191), that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbance or threatened disturbances of the international relations of the United States, no vessel shall be cleared for a foreign port until a complete Cargo Declaration, Customs Form 1302 or 1302-A (see § 4.63), and all required export declarations have been filed with the district director, unless clearance in accordance with paragraphs (a) and (b) of this section is authorized by the Commissioner of Customs.[109] (R.S. 4197, as amended; 46 U.S.C. 91) **[MCL 96; supp. 1; TDs 51628, 52675, 52676, 55259, 55357, 55396, 55876, 71-169, 77-255.]**

Coastwise Procedure

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) No vessel shall transport, either directly or by way of a foreign port, any passenger or merchandise between points in the United States embraced within the coastwise laws, including points within a harbor, or merchandise for any part of the transportation between such points, unless it is— **[BMIN/BN 388/41; MCL 15/42. TDs 50592, 50601, 50621, 50623, 50653, 50654, 50698, 50729, 50732, 50756, 50811, 51049. TD 54783, 69-266.]**

(1) Owned by a citizen and is so documented under the laws of the United States as to permit it to engage in the coastwise trade;

(2) Owned by a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, would be entitled to be enrolled and licensed or licensed for the coastwise trade; or

(3) Owned by a partnership or association in which at least a 75-percent interest is owned by such a citizen, is exempt from documentation and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be enrolled and licensed or licensed for the coastwise trade.

(b) *Penalties for violating coastwise laws.* (1) The penalty imposed for the illegal transportation of merchandise between coastwise points is forfeiture of the merchandise or, in the discretion of the district director, forfeiture of a monetary amount up to the value of the merchandise to be recovered from the consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing the merchandise to be transported (46 U.S.C. 883). **[TD 79-160.]**

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $200 for each passenger so transported and landed (46 U.S.C. 289). **[TD 79-160.]**

(c) Any vessel of the United States, whether or not entitled under paragraph (a) of this section to engage in the coastwise trade, and any foreign vessel may proceed between points in the United States embraced within the coastwise laws to discharge cargo or passengers laden at a foreign port, to lade cargo or passengers for a foreign port, in ballast, or to transport certain articles in accordance with § 4.93. Cargo laden at a foreign port may be retained onboard during such movements. Furthermore, certain barges of United States or foreign flag may transport transferred merchandise between points in the United States embraced within the coastwise laws, excluding transportation between the continental United States and a noncontiguous point in the United States embraced within the coastwise laws, in accordance with § 4.81a. **[TDs 68-302, 69-266, 74-63]**

(d) No vessel owned by a corporation which is a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 883-1) shall be used in any trade other than the coastwise trade and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would be entitled to be enrolled and licensed or licensed for the coastwise trade. Such a vessel shall not be documented for nor engage in the foreign trade or the fisheries and shall not transport merchandise or passengers coastwise for hire except as a service for a parent or a subsidiary corporation as defined in the aforesaid Act or while under demise or bareboat charter at prevailing rates for use otherwise than in trade with noncontiguous territory of the United States to a common or contract carrier subject to Part III of the Interstate Commerce Act, as amended (49 U.S.C. 901-923), which otherwise qualifies as a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such owning corporation. **[TD 54827, 69-266.]**

(e) No vessel which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, shall have the right to engage in such trade if it thereafter has been sold or transferred foreign in whole or in part or placed under foreign registry, or, if of more than 500 gross tons, has been rebuilt unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, was effected within the United States, its Territories (not including trust territories), or its possessions. However, no rebuilt vessel shall be deemed to have lost its coastwise privileges within the meaning of the above if rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before July 5, 1960, if the work of rebuilding commenced not later than 24 months after such date. **[TD 69-266.]**

(f) No foreign-built vessel owned and documented as a vessel of the United States prior to February 1, 1920, by a citizen nor one owned by the United States on June 5, 1920, and sold to and owned by a citizen, shall engage in the American fisheries but it is otherwise unlimited as to trade so long as it continues in such ownership (section 22, Merchant Marine Act, of June 5, 1920; 46 U.S.C. 13). No foreign-built vessel which is owned by a citizen, but which was not so owned and documented on February 1, 1920, or which was not owned by the United States on June 5, 1920, shall engage in the coastwise trade or the American fisheries. No foreign-built vessel which has been sold, leased, or chartered by the Secretary of Commerce to any citizen, shall engage in the American fisheries, but it is otherwise unlimited as to trade so long as it continues in such ownership, lease, or charter (section 9 of the Act of Sept. 7, 1916, as amended, 46 U.S.C. 808). A vessel engaged in taking out fishing parties for hire, unless it intends to proceed to a foreign port, is considered to be engaged in the coastwise trade and not the fisheries. **[TD 69-266.]**

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[109] T.D. 55357, 26 FR 2965, as amended by T.D. 55396, 26 FR 5004, as amended by T.D. 70-6, 35 FR 599 provides that vessels may be cleared pursuant to the procedure provided for in section 4.75(a) and (b), except that no vessel shall be cleared for any port in Albania, Bulgaria, Communist China (including Inner Mongolia, Tibet, and Manchuria), the Communist-controlled area of Viet Nam, Czechoslovakia, East Germany (Soviet Zone of Germany and Soviet Sector of Berlin), Estonia, Hungary, Latvia, Lithuania, North Korea, Outer Mongolia, Rumania, Union of Soviet Socialist Republics, Poland (including Danzig), or Cuba, until a complete outward foreign manifest and all required export declarations have been filed with the district director of customs.

(g) Certain vessels not documented under the laws of the United States which are acquired by or made available to the Secretary of Commerce may be documented under section 3 of the Act of August 9, 1954 (50 U.S.C. 198). Such vessels shall not engage in the coastwise trade unless in possession of a valid unexpired permit to engage in that trade issued by the Secretary of Commerce under authority of section 3(c) of the said Act. **[TD 69-266.]**

(h) All vessels not exempt from documentation and engaged in trade between ports in the United States or engaged in the fisheries, if not registered, shall be enrolled and licensed, or licensed, or will be liable to a penalty of $30 on every arrival, unless the vessel has not been within the United States since the expiration of its document. (R.S. 4132, as amended, R.S. 4214, as amended, R.S. 4311, as amended, secs. 7, 8, 24 Stat. 81, as amended, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, secs. 22, 27, 41 Stat. 997, 999, as amended, 72 Stat. 1736; 46 U.S.C. 11, 13, 103, 251, 289, 319, 802, 808, 883, 883-1) **[TDs 69-266, 74-63.]**

§ 4.80a Passengers on foreign vessels taken on board and landed in the United States.

(a) A foreign vessel which takes a passenger on board at a port in the United States, its territories, or possessions embraced within the coastwise laws ("coastwise port") will be deemed to have landed that passenger in violation of the coastwise laws (46 U.S.C. 289) if: **[TD 68-285.]**

(1) The passenger goes ashore, even temporarily, at another coastwise port on a voyage solely to one or more coastwise ports, regardless of whether the passenger ultimately severs his connection with the voyage at the port at which he embarked;

(2) The passenger goes ashore, even temporarily, at another coastwise port on a voyage to one or more coastwise ports but touching at a nearby foreign port or ports (but at no other foreign port) if during the course of the voyage the vessel remains in the coastwise port (not including the port of embarkation) for more than 24 hours, without regard to whether the passenger ultimately severs his connection with the vessel at the port at which he embarked. This period may be extended by the district director of Customs concerned to 96 hours or by the Commissioner of Customs for a longer period if the district director or the Commissioner is satisfied that the vessel will be unable to depart within the permitted period for reasons connected with the loading or unloading of cargo or the safety or safe navigation of the vessel. **[TDs 69-166, 70-28.]**

(3) The passenger severs his connection with the voyage at another coastwise port on a voyage which touches no foreign port other than a nearby foreign port; or

(4) The passenger goes ashore at any port other than the port at which he embarked if coastwise transportation is the primary object of the voyage.

(b) In the absence of evidence that coastwise transportation is the primary object, a foreign vessel engaged on a voyage touching or originating at any foreign port other than a nearby foreign port shall not be deemed to be engaged in the coastwise trade and may, without penalty, disembark a passenger at any coastwise port: *Provided*, That that passenger has proceeded or will proceed with the vessel to a foreign port other than a nearby foreign port.

(c) For the purposes of this section a nearby foreign port is defined as any foreign port in North America, Central America, the West Indies (including the Bahama Islands), or the Bermuda Islands. A port in the Virgin Islands shall be treated as a nearby foreign port for the purposes of this section. (Sec. 8, 24 Stat. 81, as amended; 46 U.S.C. 289.)

(d) The owner or charterer of a foreign vessel or any other interested party may request from Headquarters, United States Customs Service, an advisory ruling as to whether or not the primary object of a contemplated voyage would be considered to be coastwise transportation in violation of 46 U.S.C. 289. Such a request shall be filed in accordance with the provisions of Part 177 of this chapter. **[TDs 73-319, 75-186.]**

§ 4.80b Coastwise transportation of merchandise.

(a) *Effect of manufacturing or processing at intermediate port or place.*—A coastwise transportation of merchandise takes place, within the meaning of the coastwise laws, when merchandise laden at a point embraced within the coastwise laws ("coastwise point") is unladen at another coastwise point, regardless of the origin or ultimate destination of the merchandise. However, merchandise is not transported coastwise if at an intermediate port or place other than a coastwise point (that is, at a foreign port or place, or at a port or place in a territory or possession of the United States not subject to the coastwise laws), it is manufactured or processed into a new and different product, and the new and different product thereafter is transported to a coastwise point.

(b) *Request for ruling.*—Interested parties may request an advisory ruling from Headquarters, United States Customs Service, Attention: Carriers, Drawback and Bonds Division, as to whether a specific action taken or to be taken with respect to merchandise at the intermediate port or place will result in its becoming a new and different product for purposes of this section. The request shall be filed in accordance with the provisions of Part 177 of this chapter. **[TD 79-193.]**

§ 4.81 Reports of arrivals and departures in coastwise trade.

(a) No vessel which is enrolled and licensed or licensed for the coastwise trade, registered, or owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when coming into one port of the United States from any other such port, except as provided for in § § 4.83 and 4.84 of the regulations of this part, nor to obtain a clearance, permit to proceed, or permission to depart when going from one port in the United States to any other such port except when transporting merchandise to a port in noncontiguous territory.[111] **[BMIN/CL 308/41; MCL 15/42. TDs 50643, 50794, 53888, 55876.]**

(b) When the facts are as above stated except that the vessel is carrying bonded merchandise, the master shall report its arrival as provided for in § 4.2.

(c) [Reserved]

(d) The traveling Crew's Effects Declaration, Customs Form 1304, or Customs and Immigration Form I-418 with attached Customs Form 5129, referred to in § 4.85 (b), (c), and (e) shall be deposited with the district director upon arrival at each port in the United States and finally surrendered to the boarding officer or district director at the port where the vessel first departs directly for a foreign port. **[TD 71-169.]**

(e) Before any foreign vessel shall depart in ballast, or solely with articles to be transported in accordance with § 4.93, from any port in the United States for any other such port, the master shall apply to the district director for a permit to proceed by filing a General Declaration, Customs Form 1301, in duplicate. If a vessel is proceeding in ballast and therefore Cargo Declaration, Customs Form 1302, is omitted, the word "None" shall be inserted in item 17 of the General Declaration and the words "No merchandise on board" shall be inserted in item 13 of the General Declaration. However, articles to be transported in accordance with § 4.93 shall be manifested on Cargo Declaration, as required by § 4.93(c). Three copies of the Cargo Declaration shall be filed with the district director. The required master's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)). When the district director grants the permit by making an appropriate endorsement on the General Declaration, (see § 4.85(b)), the duplicate copy, together with two copies of the Cargo Declaration covering articles to be transported in accordance with § 4.93, shall be returned to the master. The traveling Crew's Effects Declaration Customs Form 1304 and all unused crewmembers' declarations on Customs Form 5129 shall be placed in a sealed envelope addressed to the Customs boarding officer at the next intended domestic port and returned to the master for delivery. The master shall execute a receipt for all unused crewmembers' declarations which are returned to him. Within 24 hours after arrival at the next United States port the master shall report his arrival to the district director. He shall make entry within 48 hours by filing with the district director the permit to proceed on General Declaration received at the previous port, a newly executed General Declaration, a Crew's Effects Declaration of all unentered articles acquired abroad by crewmembers which are still on board, a Ship's Stores Declaration Customs Form 1303 in duplicate of the stores remaining on board, both copies of the Cargo Declaration covering articles transported in accordance with § 4.93, and the document of the vessel. The required master's oath shall be executed on The Master's Oath on Entry of Vessel in Foreign Trade (see § 4.63(a)). The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5129 returned at the prior port to the master shall be delivered by him to the boarding officer. **[TDs 51912, 52954, 53336, 53425, 53792, 68-302, 71-169, 74-284, 77-255.]**

(f) The master, licensed deck officer, or purser who enters or clears a vessel, or who obtains permission for a vessel to depart, when required under the provisions of this section or of § § 4.82, 4.84, 4.85, 4.87, 4.89, or 4.91 of the regulations of this part, may appear in person at the customhouse for that purpose, or any required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. **[TDs 53775, 55876.]**

(g) In lieu of the procedures stated in § § 4.85 and 4.87 and at the option of the owner or operator, unmanned non-self-propelled barges specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in the foreign trade, hereinafter referred to as LASH-type barges, may move under a simplified permit-to-proceed procedure as follows: **[TDs 74-63, 75-315.]**

(1) At the port where a LASH-type barge begins a coastwise movement with inward foreign cargo, a permit to proceed on Customs Form 1301 must be obtained. The required oath shall be executed on Customs Form 1300. A single permit to proceed may be for all the barges proceeding to the same port of unlading in the same tow. An inward foreign manifest of the cargo in each barge, destined to the port of unlading shown on the permit to proceed, must be attached to each permit and a Customs Form 7512-C must be prepared for each permit. At the port of unlading of the barge, report of arrival and entry must be made within 24 hours to the appropriate Customs officer by presentation of the permit to proceed, manifests, Form 7512-C obtained at the preceding port, a new master's oath, and a new General Declaration (Customs Form 1301). If only part of the inward foreign cargo is unladen, a new permit to proceed must be obtained, the inward foreign manifests shall be attached to it, the master's oath shall be filed, a new Form 7512-C shall be prepared. **[TD 75-315.]**

(2) At the port where a LASH-type barge begins a coastwise movement with export cargo, a permit to proceed on Customs Form 1301 and a master's oath must be presented to the appropriate Customs officer. A single permit to proceed and master's oath may be presented for all the barges proceeding from the same port of lading in the same tow. Required shipper's export declarations for LASH-type barges must be filed at the port where the barges will be taken aboard a barge-carrying vessel. Where a complete manifest is not available at the port of lading, the permit to proceed must include a statement that a complete manifest and shipper's export declaration for each barge will be filed at the port where the barge will be taken aboard a barge-carrying vessel, and that

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[111] See § 4.84.

port must be identified in the statement. At the next port, a report of arrival must be made within 24 hours and entry must be made within 48 hours by presentation of the permit to proceed received upon departure from the prior port, a newly executed General Declaration (Customs Form 1301), and a master's oath.

(3) When foreign LASH-type barges are proceeding between ports of the United States under paragraph (e) of this section, a single permit to proceed may be used for all the barges proceeding to the same port in the same tow.

(4) In lieu of the master of the towing vessel executing and delivering documents required under permit-to-proceed procedures (see § 4.81(f)) at the port where a LASH-type barge begins a coastwise movement, the master of the towing vessel may designate in writing the owner or operator of the barges as his representative with authority to execute and deliver such documents at the customhouse. The owner or operator of the barges may designate representatives to perform such functions at ports or places where permit-to-proceed documents must be delivered. Documents obtained from Customs officers at one place by such a representative may be forwarded by any suitable means to the representative who must present them to Customs officers at another place, the only requirement being that the forms are properly completed and are presented within the prescribed time periods. Moreover, instead of a written designation from each master of a towing vessel, a blanket designation in writing from the owner or operator of one or more towing vessels on behalf of masters of their towing vessels, designating the owner or operator of the barges to be the representative of the master for purposes of executing and delivering permit-to-proceed documents, is authorized.

(5) [Reserved]

(6) When a LASH-type barge is proceeding to a place in the United States that is not a port of entry, § 101.4(a) and (b) of this chapter are applicable. No merchandise shall be unladen from a LASH-type barge until a permit or special license therefor is obtained in accordance with § 4.30 except that a single permit to unlade may be used for all barges that arrived at the port of unlading in the same tow. (R.S. 4132, as amended, R.S. 4311, as amended, R.S. 4367, R.S. 4368, sec. 27, 41 Stat. 999, as amended, secs. 433, 439, 442, 443, 444, 486, 46 Stat. 711, as amended, 712, as amended, 713, as amended, 725, as amended; 19 U.S.C. 1433, 1439, 1442, 1443, 1444, 1486, 46 U.S.C. 11, 251, 313, 314, 883) **[TD 77-241.]**

§ 4.81a Certain barges carrying merchandise transferred from another barge.

(a) A LASH-type barge (as defined in § 4.81(g)) documented as a vessel of the United States but not qualified to engage in the coastwise trade or a LASH-type barge of a nation found to grant reciprocal privileges to United States-flag LASH-type barges may transport inward foreign and export cargo between points embraced within the coastwise laws of the United States after the merchandise has been transferred to it from another LASH-type barge owned or leased by the same owner or operator. This section is not applicable to transportation between the continental United States and noncontiguous States, districts, territories, and possessions embraced within the coastwise laws. The permit to proceed shall include a statement that the unqualified LASH-type barge is owned or leased by the owner or operator of the LASH-type barge from which the merchandise was transferred. **[TFs 74-63, 75-315.]**

(b) The following nations have been found to extend privileges reciprocal to those provided in paragraph (a) of this section to LASH-type barges of the United States: **[TDs 74-292, 75-7, 78-492.]**

Federal Republic of Germany.
Netherlands.
Sweden.
Union of Soviet Socialist Republics. (Sec. 27, 41 Stat. 999, as amended; 46 U.S.C. 883)

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A vessel under unlimited register or frontier enrollment and license which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggage, or mail[112] shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch. The Cargo Declaration, Customs Form 1302 or 1302-A (see § 4.63), shall show only the cargo for foreign destination. (See §§ 4.61 and 4.87.) **[TD 77-255.]**

(b) The master shall also present to the district director a coastwise Cargo Declaration in triplicate of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It shall describe the merchandise and show the marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The district director shall certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a transportation entry and manifest, Customs Form 7512, shall not be shown on the coastwise Cargo Declaration. **[TD 77-255.]**

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is under a frontier enrollment and license. The master shall present Cargo Declaration in accordance with § 4.7 and the certified copies of the coastwise Cargo Declaration, Customs Form 1302. **[TDs 50683, 77-255.]**

(d) All merchandise on the vessel upon its arrival at the subsequent port in the United States is subject to such

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[112] "Any vessel, on being duly registered in pursuance of the laws of the United States, may engage in trade between one port in the United States and one or more ports within the same, with the privilege of touching at one or more foreign ports during the voyage, and land and take in thereat merchandise, passengers, and their baggage, and letters, and mails. All such vessels shall be furnished by the collectors of the ports at which they shall take in their cargoes in the United States, with certified manifests, setting forth the particulars of the cargoes, the marks, number of packages, by whom shipped, to whom consigned, at what port to be delivered; designating such merchandise as is entitled to drawback, or to the privilege of being placed in the warehouse; and the masters of all such vessels shall, on their arrival at any port of the United States from any foreign port at which such vessel may have touched, as herein provided, conform to the laws providing for the delivery of manifests of cargo and passengers taken on board at such foreign port, and all other laws regulating the report and entry of vessels from foreign ports, and be subject to all the penalties therein prescribed." (19 U.S.C. 293)

Customs examination and treatment as may be necessary to protect the revenue. Any article on board which is not identified to the satisfaction of the district director, by the coastwise Cargo Declaration, Customs Form 1302 or otherwise, as part of the coastwise cargo, shall be treated as imported merchandise.[113] (R.S. 2793, as amended, 3126, 3127, 4318, as amended; 19 U.S.C. 293, 294, 46 U.S.C. 123, 258) **[TD 77-255.]**

§ 4.83 Trade between United States ports on the Great Lakes and other ports of the United States.

(a) If a vessel proceeding from or to a port of the United States on the Great Lakes to or from any other port of the United States via the St. Lawrence River is intended to touch at any foreign port and does so touch, it will be subject to the usual requirements for manifesting, clearing, report of arrival, entry, payment of fees for entry and clearance, and tonnage taxes. Vessels which are boarded on the St. Lawrence River by Canadian authorities for the purposes of inspecting the vessel and taking a passing report are not deemed to have touched at a foreign port, provided that no ship's stores are landed or taken aboard and no other business is transacted at the port or place of boarding. **[TDs 47455, 53336, 55119, 55394, 69-266.]**

(b) A vessel in the coastwise trade only, which is proceeding from or to a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under enrollment and license or frontier enrollment and license and shall not be subject to the requirements for clearance, report of arrival, or entry. (R.S. 4197, as amended, R.S. 2793, as amended, R.S. 4318, as amended; 46 U.S.C. 91, 111, 123, 258.) **[TD 55876.]**

§ 4.84 Trade with noncontiguous territory.

(a) No foreign vessel shall depart from a port in noncontiguous territory of the United States for any other port in noncontiguous territory or for any port in any State or the District of Columbia, nor from any port in any State or the District of Columbia for any port in noncontiguous territory, until a clearance for the vessel has been granted. Such a clearance shall be granted in accordance with the applicable provisions of § 4.61 of the regulations of this part, except that the Customs Form 1378 shall be modified by striking out "to a foreign port" and substituting "to noncontiguous territory of the United States" or "to the United States," as the case may be, unless the vessel is simultaneously engaged in one or more of the transactions listed in § 4.90(a) (4), (5), or (6) of the regulations of this part. In the latter case, clearance shall be granted only on Customs Form 1301; § 4.90(b) of the regulations of this part. When merchandise is laden on a foreign vessel in noncontiguous territory other than Puerto Rico, for transportation on that vessel to a port in any State, the District of Columbia, or noncontiguous territory, and when this transportation is not forbidden by the coastwise laws, the merchandise may be laden and shipped without shipper's export declarations. **[TDs 51209, 51912, 55541, 55876, 71-169.]**

(b) The master of every foreign vessel arriving at a port in any State or the District of Columbia or in noncontiguous territory of the United States from a port in noncontiguous territory to which the coastwise laws do not apply (e.g., Virgin Islands and American Samoa), or arriving at any port in noncontiguous territory to which the coastwise laws do not apply from any place embraced within the coastwise laws, shall report its arrival within 24 hours and make entry for the vessel within 48 hours after its arrival. **[TD 55876.]**

(c) A vessel which is not required to clear but which is transporting merchandise from a port in any State or the District of Columbia to any noncontiguous territory of the United States (including Puerto Rico), or from Puerto Rico to any State or the District of Columbia or any other noncontiguous territory, shall not be permitted to depart without filing a complete manifest, when required by regulations of the Bureau of the Census (15 CFR Part 30), and all required shipper's export declarations, unless before the vessel departs an approved bond is filed for the timely production of the required documents, as specified in § 30.24 of those regulations (15 CFR 30.24). Requests for permission to depart may be written or oral and permission to depart shall be granted orally by the appropriate Customs officer. However, if the request is to depart prior to the filing of the required manifest and export declarations, permission shall not be granted unless the appropriate bond is on file. In the latter case, the Customs officer shall keep a simplified record of the necessary information in order to assure that the manifest and export declarations are filed within the required time period. The Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)), required at the time of clearance is not required to be taken to obtain permission to depart. **[TDs 55876, 77-255.]**

(d) Upon arrival of a vessel of the United States at a port in any State, the District of Columbia, or Puerto Rico from a port in noncontiguous territory other than Puerto Rico, the master shall report its arrival within 24 hours and shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in § § 4.7 and 4.9 but shall not be required to make entry. If the vessel proceeds directly to another port in any State, the District of Columbia, or Puerto Rico, the master shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in § 4.85 but no permit to proceed on the General Customs Declaration, Customs Form 1301, shall be required for the purposes of this paragraph. No cargo shall be unladen from any such vessel until Cargo Declarations have been filed and a permit to unlade has been issued in accordance with the procedure specified in § 4.30. **[TDs 53336, 55876, 77-255.]**

(e) No vessel shall bring guano to the United States from a guano island appertaining to the United States (see 48 U.S.C. 1411) unless such a vessel is entitled to engage in the coastwide trade. **[TDs 54827, 55876.]**

(f) No vessel owned by a corporation which qualifies as a citizen under the Act of September 2, 1958 (46 U.S.C.

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[113] "Any foreign merchandise taken in at one port of the United States to be conveyed in registered vessels to any other port within the same, either under the provisions relating to warehouses, or under the laws regulating the transportation coastwise of merchandise entitled to drawback, as well as any merchandise not entitled to drawback, but on which the import duties chargeable by law shall have been duly paid, shall not become subject to any import duty by reason of the vessel in which they may arrive having touched at a foreign port during the voyage." (19 U.S.C. 294)

883-1) shall, while under demise or bareboat charter from such corporation, be granted clearance or permitted to depart in trade with noncontiguous territory. (Secs. 433, 435, 437, 46 Stat. 711, R.S. 4197, as amended, 4367, 4368, 27A, 72 Stat. 1736; 19 U.S.C. 1433, 1435, 1437, 46 U.S.C. 91, 313, 314, 883-1) **[TDs 55876, 69-266, 79-276.]**

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.[115] No additional bond shall be required at subsequent ports of entry. Before the vessel departs from the port of first arrival, the master shall obtain from the district director a certified copy of the complete inward foreign manifest (hereinafter referred to as the traveling manifest).[116] The certified copy shall have a legend similar to the following endorsed on the General Declaration, Customs Form 1301: **[TDs 53648, 53792, 71-169.]**

Port Date

Certified to be a true copy of the original inward foreign manifest.

Signature and title

(b) Before a vessel proceeds from one domestic port to another with cargo or passengers on board as described in paragraph (a) of this section, the master shall present to the district director at such port of departure an application in triplicate on Customs Form 1301 for a permit to proceed to the next port. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). When a district director grants the permit on Customs Form 1301, the following legend shall be endorsed on the form: **[TDs 52038, 52965, 53425, 53648, 56174, 71-169.]**

Port Date

Permission is granted to proceed to the port named in item 6.

Signature and title

The duplicate shall be attached to the traveling manifest and the triplicate (the permit to proceed to be delivered at the next port) shall be returned to the master, together with the traveling manifest[116] and the vessel's document, if on deposit. If no inward foreign cargo or passengers are to be discharged at the next port, that fact shall be indicated on Customs Form 1301 by inserting "To load only" in parentheses after the name of the port to which the vessel is to proceed. The traveling Crew's Effects Declaration covering articles acquired abroad by officers and members of the crew, together with the unused crewmembers' declarations prepared for such articles, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next port and given to the master for delivery.

(c) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master shall report arrival and make entry within 24 hours. To make such entry, he shall deliver to the district director the vessel's document, the permit to proceed (Customs Form 1301 endorsed in accordance with paragraph (b) of this section), the traveling manifest,[117] and the traveling Crew's Effects Declaration Customs Form 1304, together with the crewmembers' declarations received on departure from the previous port. The master shall also present an abstract manifest consisting of (1) a newly executed General Declaration Customs Form 1301, (2) a Cargo Declaration, Customs Form 1302, and a Passenger List, Customs and Immigration Form I-418, in such number of copies as may be required for local Customs purposes, of any cargo or passengers on board manifested for discharge at that port. (3) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by officers and crewmembers which are still on board, (4) a Ship's Stores Declaration, Customs Form 1303, in duplicate of the sea or ship's stores remaining on board, and (5) if applicable, the Cargo Declaration required by § 4.86. If no inward foreign cargo or passengers are to be discharged, the Cargo Declaration or Passenger List may be omitted from the abstract manifest, and the following legend shall be placed in item 12 of the General Declaration: **[TDs 52965, 53425, 53648, 53792, 56174, 66-280, 71-169, 74-284, 77-255.]**

Vessel on an inward foreign voyage with residue cargo/passengers for ———————. No cargo or passengers for discharge at this port.

The required oath shall be executed on Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(e)). The traveling manifest, together with a copy of the newly executed General Declaration, shall serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered.

(d) If preliminary entry is desired, the abstract manifest described in paragraph (c) of this section shall be ready for presentation to the boarding officer, and preliminary entry shall be made in accordance with § 4.8. **[TDs 47959, 71-169.]**

(e) The traveling manifest shall be surrendered to the district director at the final domestic port of discharge of the cargo, except that if residue foreign cargo remains on board for discharge at a foreign port or ports, the traveling manifest shall be surrendered at the final port of departure from the United States. However, it shall not be surrendered at the port from which the vessel departs for another United States port, via an intermediate foreign port, under § 4.89 if residue foreign cargo remains on board for discharge at a subsequent U.S. port. The traveling Crew's Effects Declaration shall be finally surrendered to the district director at any port from which the vessel will depart directly for a foreign port. (Secs. 439, 442, 443, 444, 623, 46 Stat. 712, as amended, 713, 759, as amended; 19 U.S.C. 1439, 1442, 1443, 1444, 1623) **[TDs 52965, 53425, 53648, 53792, 71-169.]**

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[115] "* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to lading thereof." (Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

[116] "Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board." (Tariff Act of 1930, sec. 443; 19 U.S.C. 1443)

"If the master of any such vessel shall proceed to another port or district without having obtained a permit therefor and a certified copy of his manifest, or if he shall fail to produce such permit and certified copy of his manifest to the collector at the port of destination, or if he shall proceed to any port not specified in the permit, he shall be liable to a penalty, for each offense, of not more than $500." (Tariff Act of 1930, sec. 445; 19 U.S.C. 1445)

[117] "Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of his first arrival, together with the certified copy of his manifest." (Tariff Act of 1930, sec. 444; 19 U.S.C. 1444)

§ 4.86 Intercoastal residue—cargo procedure; optional ports.

(a) When a vessel arrives at an Atlantic or Pacific coast port from a foreign port or ports with residue cargo for delivery at a port or ports on the opposite coast or on the Great Lakes, or where such arrival is at a port on the Great Lakes, with residue cargo for delivery at a port or ports on the Atlantic or Pacific coasts, or both, and the master, owner, or agent is unable at that time to designate the specific port or ports of discharge of that residue cargo, the Cargo Declaration, Customs Form 1302, filed on entry in accordance with § 4.7(b) shall show such cargo as destined for "optional ports, Atlantic coast," or "optional ports, Pacific coast," or "optional ports, Great Lakes coast," as the case may be. The traveling manifest shall be similarly noted. Upon arrival of the vessel at the first port on the next coast, the master, owner, or agent must designate the port or ports of discharge of residue cargo as required by section 431, Tariff Act of 1930. **[TDs 52965, 53848, 56174, 66-280, 77-255.]**

(b) For this purpose, the master shall furnish with the other papers required upon entry a Cargo Declaration, Customs Form 1302 in original only of inward foreign cargo remaining on board for discharge at optional ports on that coast, and the Cargo Declaration must designate the specific ports of intended discharge for that cargo. The traveling manifest shall be amended to agree with that Cargo Declaration so as to show the newly designated ports of discharge on that coast and shall be used to verify the abstract Cargo Declarations surrendered at subsequent ports on that coast. (Secs. 442, 443, 444, 46 Stat. 713; 19 U.S.C. 1442, 1443, 1444) **[TDs 56174, 77-255.]**

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license may proceed from port to port in the United States to lade cargo or passengers for foreign ports. **[MC 95/51. TDs 52038, 71-169, 77-255.]**

(b) When applying for a clearance from the first and each succeeding port of lading, the master shall present to the district director a General Declaration, Customs Form 1301, in duplicate and a Cargo Declaration, Customs Form 1302 or 1302-A, in accordance with § 4.63(a), of all the cargo laden for export at that port. The General Declaration shall clearly indicate all previous ports of lading. The required master's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63 (a)). **[TDs 52800, 54232, 71-169, 77-255.]**

(c) Upon compliance with the applicable provisions of § 4.61, the district director shall grant the permit to proceed by making the endorsement prescribed by § 4.85(b) on the General Declaration, Customs Form 1301. One copy shall be returned to the master, together with the vessel's document if on deposit. The traveling Crew's Effects Declaration, Customs Form 1304, together with any unused crewmembers' declarations, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next domestic port and returned to the master. **[TDs 53425, 54232, 71-169, 77-255.]**

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the permit to proceed on the General Declaration, Customs Form 1301 received by him upon departure from the last port a Crew's Effects Declaration, Customs Form 1304, in duplicate listing all unentered articles acquired abroad by officers and crew of the vessel which are still retained on board, and a Ship's Stores Declaration, Customs Form 1303, in duplicate of the stores remaining aboard. The master shall also execute a General Declaration. The required master's oath shall be on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(e)). The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations returned to the master at the prior port, shall be delivered by him to the district director. **[TDs 51912, 52038, 53425, 53792, 54232, 71-169, 77-255.]**

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61. **[TDs 52800, 54232, 71-169, 77-255.]**

(f) If a complete Cargo Declaration, Customs Form 1302 or 1302-A (see § 4.63), and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on the General Declaration, Customs Form 1301 (Customs Form 1378 at the last port) may be granted in accordance with § 4.75, subject to the limitation specified in § 4.75(c). **[TDs 55876, 71-169, 77-255.]**

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel shall deliver to the district director at that port within 4 business days after the vessel's clearance[118] a Cargo Declaration, Customs Form 1302 or 1302-A (see section 4.63), an oath on Customs Form 1300, and the export declarations to cover the cargo laden for export at that port. **[TDs 52800, 54232, 55876, 71-169, 77-255.]**

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the collector at the port of first entry.[119]

(b) The district director shall designate the items of such merchandise, if any, for which foreign landing certificates[120] will be required. **[TDs 30681, 35319, 37246, 41948, 47959, 53648.]**

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[118] See footnotes 106 and 107. (Secs. 433, 435, 437, 439, 442, 443, 444, 46 Stat. 711, 712, as amended, 713, R.S. 4197, as amended, 4367, 4368; 19 U.S.C. 1433, 1435, 1437, 1439, 1442, 1443, 1444, 46 U.S.C. 91, 313, 314)

[119] "Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unlading the same and without the payment of duty thereon. * * *" (Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

(c) If the vessel clears directly foreign from the first port of arrival, cargo brought in from foreign ports and retained on board may be declared on the Cargo Declaration, Customs Form 1302 or 1302-A (see § 4.63), by the insertion of the following statement: **[TDs 52965, 55645, 77-255.]**

> All cargo declared on entry in this port as cargo for discharge at foreign ports and so shown on the Cargo Declaration filed upon entry has been and is retained on board.

If any such cargo has been landed, the Cargo Declaration shall describe each item of the cargo from a foreign port which has been retained on board (see § 4.63(a)).

(d) If the vessel is proceeding to other ports in the United States with foreign residue cargo on board manifested for discharge at a foreign port or ports, a procedure like that set forth in § 4.85 shall be followed with respect thereto. (Secs. 442, 622, 623, 46 Stat. 713, 759, as amended; 19 U.S.C. 1442, 1622, 1623)

§ 4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.

(a) A vessel proceeding from port to port in the United States in accordance with §§ 4.85, 4.86, or 4.87 may touch at an intermediate foreign port or ports to lade or discharge cargo or pagers. In such a case the vessel shall obtain clearance from the last port of departure in the United States before proceeding to the intermediate foreign port or ports at which it is intended to touch. The Cargo Declaration Customs Form 1302 or 1302-A (see § 4.63), shall show the cargo for such foreign destination in the manner provided in § 4.88(c). **[TDs 55645, 77-255.]**

(b) The master shall also present to the district director the Cargo Declaration or Cargo Declarations required by §§ 4.85, 4.86, or 4.87, and obtain a permit to proceed on the General Declaration, Customs Form 1301, to the next port in the United States at which the vessel will touch. **[TD 77-255.]**

(c) Upon arrival at the next port in the United States after touching at a foreign port or ports a report of arrival and entry shall be made. The Cargo Declaration, Customs Form 1302, filed at time of entry shall list the cargo laden at the intermediate foreign port or ports. **[TD 77-255.]**

(d) The master shall also present to the district director the permit to proceed on the General Declaration, Customs Form 1301, and the Cargo Declaration from the last previous port in the United States as provided for in §§ 4.85, 4.86, or 4.87. **[TD 77-255.]**

§ 4.90 Simultaneous vessel transactions.

(a) A vessel may proceed from port to port in the United States for the purpose of engaging in two or more of the following transactions simultaneously,[121] subject to the limitations hereafter mentioned in this section and the conditions stated in the sections indicated in the list:

(1) Coastwise trade (§ 4.80).
(2) Touching at a foreign port while in coastwise trade (§ 4.82).
(3) Trade with noncontiguous territory of the United States (§ 4.84).
(4) Carriage of residue cargo or passengers from foreign ports (§§ 4.85-4.86).
(5) Carriage of cargo or passengers laden for foreign ports (§ 4.87).
(6) Carriage of residue cargo for foreign ports (§ 4.88).

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on Customs Form 1301. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged. **[71-169.]**

(c) A foreign vessel is not authorized by this section to engage in the coastwise trade, including trade with noncontiguous territory embraced within the coastwise laws.

(d) A vessel of the United States may engage in transaction (2), (4), (5), or (6) only if under register or frontier enrollment and license. Such a vessel shall not engage in transactions (1) or (3) unless permitted by its register or frontier enrollment and license so to do.

(e) When one vessel bond on Customs Form 7567, or 7569 is filed at any port and applicable to the current voyage of the vessel, it shall cover all simultaneous transactions engaged in on that voyage and no other like bond need be filed.

§ 4.91 Diversion of vessel; transshipment of cargo.

(a) If any vessel granted a permit to proceed from one port in the United States for another such port as provided for in §§ 4.81(e), 4.85, 4.87, or 4.88, is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed (Customs Form 1301),[122] the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the permit, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute an amendment of the permit previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the district director at the latter port with the Form 1301 submitted on entry of vessel. **[BMIN/CL 12, 11/13/35. TD 71-169.]**

(b) If any vessel cleared from a port in the United States for a foreign port as provided for in § 4.60 is diverted, while en route, to a port in the United States other than that from which it was cleared, the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the clearance, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute a permit to proceed coastwise, and shall authorize the vessel to proceed to the new destination. On arrival at the new destination, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting (1) the vessel's document, (2) the foreign clearance on Form 1378 granted by the district director at the port of departure, (3) a certificate that when the vessel was cleared from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board, and (5) a Ship's Stores Declaration in duplicate of the stores on board. **[TDs 52258, 52954, 54232, 71-169.]**

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[120] "The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue." (Tariff Act of 1930, sec. 622; 19 U.S.C. 1622)

[121] For the purposes of this part, an inward foreign voyage is completed at the port of final discharge of inbound passengers or cargo, and an outward foreign voyage begins at the port where cargo or passengers are first laden for carriage to a foreign destination.

[122] See § 4.33.

(c) In a case of necessity, a district director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transship[123] all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest (Cargo Declaration, Customs Form 1302, or Passenger List, Customs and Immigration Form I-418) shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel. **[TDs 53648, 71-169, 77-255.]**

§ 4.92 Towing.

The prohibition against the use of foreign vessels in towing operations[124] shall be enforced with respect to such operations between any points embraced within the coastwise laws.

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

(a) Vessels of the United States prohibited from engaging in the coastwise trade and vessels of nations found to grant reciprocal privileges to vessels of the United States may transport the following articles between points embraced within the coastwise laws of the United States: **[TDs 66-176, 68-302, 68-303, 71-169.]**

(1) Empty cargo vans, empty lift vans, and empty shipping tanks; equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges; and empty instruments of international traffic exempted from application of the Customs laws by the Secretary of the Treasury pursuant to the provisions of section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)), if such articles are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade. **[TD 74-63.]**

(2) Stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade.[125]

(b)(1) The following nations have been found to extend privileges reciprocal to those provided in paragraph (a) of this section for empty cargo vans, empty lift vans, and empty shipping tanks to vessels of the United States: **[TDs 66-201, 66-224, 67-18, 67-60, 67-86, 67-104, 67-124, 67-215, 67-255, 68-116, 68-302, 68-303, 69-185, 70-74, 70-172, 70-183, 70-185, 70-205, 71-242, 71-254, 72-26, 73-19, 73-122, 74-28, 74-205, 74-292, 75-109, 75-122, 76-205, 76-278, 77-221, 77-255, 79-228, 80-152, 81-14, 81-84, 81-256.]**

Australia.
Austria.
Belgium.
Bermuda.
Brazil.
Canada.
Colombia.
Denmark.
Ecuador.

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[123] See § 4.31.

[124] "It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbor of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit." (46 U.S.C. 316(a)) **[TD 68-302.]**

"Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportaton of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: *Provided*, That except as authorized by section 883 of this title, such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same." (46 U.S.C. 316(c))

"Every undocumented vessel, operated in whole or in part by machinery owned in the United States and found on the navigable waters thereof, except public vessels, and vessels not exceeding sixteen feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors, shall be numbered. * * *" (46 U.S.C. 288) (R.S. 4370 as amended; 46 U.S.C. 316)

[125] "* * * *Provided further*, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 322 Tariff Act of 1930 (19 U.S.C. 1322(a)), if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transported vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade." (46 U.S.C. 883) **[TD 68-302]**

France.
Germany, Federal Republic of.
Greece.
Iceland.
Iran.
Ireland.
Israel.
Italy.
Japan.
Kuwait.
Liberia.
Mexico.
Netherlands.
Norway.
Philippines.
Polish People's Republic.
Portugal
Republic of China.
Republic of Korea.
Republic of Panama.
Republic of Singapore.
Republic of Zaire.
South Africa.
Sweden.
Union of Soviet Socialist Republics.
United Kingdom (including Hong Kong).
Yugoslavia, Socialist Federal Republic of.

(2) The following nations have been found to extend similar reciprocal privileges in respect to the other articles mentioned in paragraph (a) of this seciton: **[TDs 69-39, 69-58, 69-59, 69-72, 69-127, 69-178, 69-185, 69-203, 70-172, 70-185, 70-205, 70-217, 71-242, 71-254, 72-26, 73-19, 73-122, 74-292, 75-109, 76-205, 76-278, 77-221, 77-225, 79-228, 80-152, 80-229, 81-14.]**

Australia.
Austria.
Belgium.
Bermuda.
Brazil.
Colombia.
Denmark.
Federal Republic of Germany.
Finland.
France.
Iceland.
Ireland.
Israel.
Italy.
Kuwait.
Liberia.
Mexico.
Netherlands.
Norway.
Polish People's Republic.
Portugal.
Republic of China.
Republic of Korea.
Republic of Panama.
Republic of Singapore.
Republic of Zaire.
South Africa.
Sweden.
Union of Soviet Socialist Republics.
United Kingdom (inlcuding Hong Kong).

(c) Any Cargo Declaration, Customs Form 1302, required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, giving its identifying number or symbol, if any, or such other identifying data as may be appropriate, the names of the shipper and consignee, and the destination. The Cargo Declaration shall also include a statement (1) that the articles specified in paragraph (a)(1) of this section are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material specified in paragraph (a)(2) of this section is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for his use in handling his cargo in foreign trade. If the district director at the port of lading is satisfied that there will be sufficient control over the coastwise transportation of the article without identifying it by number or symbol or such other identifying data on the Cargo Declaration, he may permit the use of a Cargo Declaration that does not include such information provided the Cargo Declaration includes a statement, that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying number or symbol or other appropriate identifying data for the article to be unladen at that port. Applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed for violation of this paragraph. (Sec. 27, 41 Stat. 999, as amended, 80 Stat. 379, sec. 27, sec. 14, 67 Stat. 516, 82 Stat. 700; 5 U.S.C. 301, 19 U.S.C. 66, 1322(a), 1624, 46 U.S.C. 883) **[TDs 68-302, 71-169, 77-38, 77-255.]**

Note: For FR citations affection § 4.93 see List of CFR Sections Affected.

General

§ 4.94 Yacht privileges and obligations.

(a) A vessel documented as a yacht shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay. A vessel which is so documented and which is not engaged in any trade nor in any way violating the Customs or navigation laws of the United States may proceed from port to port in the United States or to foreign ports without clearing and is not subject to entry upon its arrival in a port of the United States, provided it has not visited a hovering vessel. **[TD 69-266.]**

(b) A cruising license may be issued to a yacht of a foreign country only if it has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are allowed to arrive at and depart from ports in such foreign country and to cruise in the waters of such ports without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage, taxes, or charge for cruising licenses. It has been made to appear to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted such privileges in the following countries: **[TDs 72-255, 74-53, 74-140, 74-248, 75-198, 77-271.]**

Argentina.
Australia.
Bahama Islands.
Bermuda.
Canada.
Germany, Federal Republic of
Great Britain (including Turks and Caicos Islands, St. Vincent (including the territorial waters of the Northern Grenadine Islands), the Cayman Islands, the St. Christopher-Nevis-Anguilla Islands and the British Virgin Islands).
Greece.
Honduras.
Jamaica.
Liberia.
Netherlands.
New Zealand.

(c) In order to obtain a cruising license for a yacht of any country listed in paragraph (b) of this section, there shall be filed with the district director of Customs an application therefor executed by either the yacht owner or the master which shall set forth the owner's name and address and identify the vessel by flag, rig, name, and such other matters as are usually descriptive of a vessel. The application shall also include a description of the waters in which the yacht will cruise, and a statement of the probable time it will remain in such waters. Upon approval of the application, the district director will issue a cruising license in the form prescribed by paragraph (d) of this section permitting the yacht, for a stated period not to exceed 6 months to arrive and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entrance and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. The license shall be granted subject to the condition that the vessel shall not engage in trade or violate the laws of the United States in any respect. The master shall comply with section 433 of the Tariff Act of 1930 upon the vessel's arrival at every port or place within the United States.

(d) Cruising licenses shall be in the following form:

License To Cruise in the Waters of the United States

To District Directors of Customs:

For a period of —————from—————(Date) the————— (Flag) —Rig) yacht —————(Name) belonging to ———————— —— of (Owner's name) ——————————(Address) shall be permitted to arrive at and depart from the United States and to cruise in the waters of the Customs district of

____
(Name of district or districts)

without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money.

This license is granted subject to the condition that the yacht named herein shall not engage in trade or violate the laws of the United States in any respect. Upon arrival at each port or place in the United States, the master shall report the fact of arrival to the Customs officer at the nearest customhouse. Such report shall be made within 24 hours, exclusive of any day on which the customhouse is not open for marine business.

Issued this ——day of ——————, 19—

____
(District Director of Customs)

(e) A foreign-flag yacht which is not in possession of a cruising license shall be required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. (Secs. 433, 434, 435, 441, 46 Stat. 711, as amended, 712, as amended, R.S. 4197 as amended, sec. 5, 35 Stat. 425, as amended, sec. 4, 28 Stat. 625, R.S. 4367, 4368; 19 U.S.C. 1433, 1434, 1435, 1441, 46 U.S.C. 91, 104, 107, 313, 314.) (Sec. 3, 23 Stat. 119, as amended, sec. 5, 35 Stat. 425, as amended (5 U.S.C. 301, 46 U.S.C. 3, 104))

§ 4.95 Records of entry and clearance of vessels.

Permanent records shall be prepared at each customhouse of all entries of vessels on Customs Form 1400 and of all clearances and permits to proceed on Customs Form 1401.[130] When the number of transactions is small, such records may be prepared on the short forms (Customs Forms 1400–A and 1401–A). Whenever a vessel is diverted, as provided for in § 4.91(a) or (b), Customs Form 1401 or 1401–A shall be amended to show the new destination. **[MCLs 8/42; 22/42/ FACLs 78, Supp. 2/42; 84, Supp. 2/42. TDs 50617, 52258, 52583, 52608, 52681, 52958, 53336, 54421.]**

These records shall be open to public inspection.

§ 4.96 Fisheries.

(a) As used in this section:

(1) The term "convention vessel" means a Canadian fishing vessel which, at the time of its arrival in the United States, is engaged only in the North Pacific halibut fishery and which is therefore entitled to the privileges provided for by the Halibut Fishing Vessels Convention between the United States and Canada signed Ottawa on March 24, 1950 (T.D. 52862); **[TD 51049, 52880.]**

(2) The term "nonconvention fishing vessel" means any vessel other than a convention vessel which is employed in whole or in part in fishing at the time of its arrival in the United States and

(i) Which is documented under the laws of a foreign country,

(ii) Which is undocumented, of 5 net tons or over, and owned in whole or in part by a person other than a citizen of the United States, or

(iii) Which is undocumented, of less than 5 net tons, and owned in whole or in part by a person who is neither a citizen nor a resident of the United States;

(3) The term "nonconvention cargo vessel" means any vessel which is not employed in fishing at the time of its arrival in the United States, but which is engaged in whole or in part in the transportation of fish or fish products[131a] and

(i) Which is documented under the laws of a foreign country or

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[130] For regulations of the Bureau of the Census relating to statistics from these

[131a] "* * * Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels on the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products." (46 U.S.C. 251)

(ii) Which is undocumented and owned by a person other than a citizen of the United States; and

(4) The term "fishing" means the planting, cultivation, or taking of fish, shell fish, marine animals, pearls, shells, or marine vegetation, or the transportation of any of those marine products to the United States by the taking vessel or another vessel under the complete control and management of a common owner or bareboat charterer.

(b) Except as provided for in paragraph (d), (e), or (g) of this section, no vessel employed in fishing, other than a vessel of the United States or a vessel of less than 5 net tons owned in the United States, shall come into a port or place in the United States.[131b]

(c) A vessel of the United States to be employed in fishing may be enrolled and licensed, or licensed, depending upon its size, or registered. If registered, the vessel must be entitled to be licensed or enrolled and licensed for the fisheries. **[TD 69-266.]**

(d) A convention vessel may come into a port of entry on the Pacific coast of the United States, including Alaska, to land its catch of halibut and incidentally-caught sable fish, or to secure supplies, equipment, or repairs. Such a vessel may come into any other port of entry or, if properly authorized to do so under § 101.4(b) of this chapter, into any place other than a port of entry, for the purpose of securing supplies, equipment, or repairs only, but shall not land its catch. A convention vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from the United States. **[TD 77-241.]**

(e) A nonconvention fishing vessel may come into a port of entry in the United States or, if granted permission under § 101.4(b) of this chapter, into a place other than a port of entry for the purpose of securing supplies, equipment, or repairs, but shall not land its catch. A nonconvention fishing vessel which comes into the United States as provided for in this paragraph shall comply with the usual requirements applicable to foreign vessels arriving at and departing from ports of the United States. **[TD 77-241.]**

(f) A nonconvention cargo vessel, although not prohibited by law from coming into the United States, shall not be permitted to land in the United States its catch of fish taken on the high seas or any fish or fish products taken on board on the high seas from a vessel employed in fishing or in the processing of fish or fish products, but may land fish taken on board at any place other than the high seas upon compliance with the usual requirements. Before any such fish may be landed the master shall satisfy the district director that the fish were not taken on board on the high seas by presenting declarations of the master and two or more officers or members of the crew of the vessel, of whom the person next in authority to the master shall be one, or other evidence acceptable to the district director which establishes the place of lading to his satisfaction. **[TD 53336.]**

(g) A convention vessel, a nonconvention fishing vessel, or a nonconvention cargo vessel which arrives in the United States in distress shall be subject to the usual requirements applicable to foreign vessels arriving in distress. While in the United States, supplies, equipment, or repairs may be secured, but, except as specified in the next sentence, fish shall not be landed unless the vessel's master, or other authorized representative of the owner, shows to the satisfaction of the district director that it will not be possible, by the exercise of due diligence, for the vessel to transport its catch to a foreign port without spoilage, in which event the district director may allow the vessel upon compliance with all applicable requirements, to land, transship, or otherwise dispose of its catch. Nothing herein shall prevent a convention vessel arriving in distress from landing its catch of halibut and incidentally-caught sable fish at a port of entry on the Pacific coast, including Alaska, upon compliance with normal Customs procedures, nor prevent a foreign cargo vessel arriving in distress from landing, upon compliance with normal customs procedures, its cargo of fish taken on board at any place not on the high seas.

(h) A registered vessel may be cleared for a whaling voyage[131c] under the same terms and conditions as though it were enrolled and licensed for the whale fishery.

§ 4.97 Salvage vessels.

(a) Only a vessel of the United States, a numbered motorboat owned by a citizen, or a vessel operating within the purview of paragraph (d) or (e) of this section, shall engage in any salvage operation in territorial waters of the United States unless an application addressed to the Commissioner of Customs to use another specified vessel in a completely described operation has been granted.[133] **[TD 69-266.]**

(b) Upon receipt of such an application, the Commissioner of Customs will cause an investigation to be made immediately to determine whether a suitable vessel of the United States or a suitable numbered motorboat owned by a citizen is available for the operation. If he finds that no such vessel is available and that the facts otherwise warrant favorable action, he will grant the application.

(c) If the application is granted, the applicant shall make a full report of the operation as soon as possible to the district director at the port nearest the place where the operation was conducted.

[131b] "Vessels of twenty tons and upward, enrolled in pursuance of sections 251-255, 258, 259, 262-280, 293, 306-316, 318, 321-330 and 333-335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries. * * *" (46 U.S.C. 251)

[131c] All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries." (46 U.S.C. 280) (R.S. 4132, as amended, 4311, as amended, 4339; 46 U.S.C. 11, 251, 280)

[133] "No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of section 725 of this title: *Provided, however,* That if, on investigation, the Secretary of the Treasury is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to section 288 of this title, is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use." (46 U.S.C. 316(d))

"Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by Article II of the treaty between the United States and Great Britain 'concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage' signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico 'to facilitate assistance to and salvage of vessels in territorial waters,' signed at Mexico City, June 13, 1935 (49 Stat. 3359)." (46 U.S.C. 316(e))

(d) A Canadian vessel may engage in salvage operations on any vessel in any territorial waters of the United States in which Canadian vessels are permitted to conduct such operations by article II of the treaty between the United States and Great Britain signed on May 18, 1908,[134] or by section 725, title 46, United States Code.[135] If any such vessel engages in a salvage operation in territorial waters of the United States, the owner or master of the vessel shall make a full report of the operation as soon as possible to the district director at the port nearest the place where the operation was conducted.

(e) A Mexican vessel may engage in a salvage operation on a Mexican vessel in any territorial waters of the United States in which Mexican vessels are permitted to conduct such operations by the treaty between the United States and Mexico signed on June 13, 1935.[136]

§ 4.98 Navigation fees.

(a)(1) The Customs Service shall publish a General Notice in the Federal Register and Customs Bulletin in December of each year, beginning in December 1980, setting forth a revised schedule of navigation fees for the folllowing services:

Fee No. and description of services

1 Entry of vessel, including American, from foreign port:
  (a) Less than 100 net tons.
  (b) 100 net tons and over.
2 Clearance of vessel, including American, to foreign port:
  (a) Less 100 net tons.
  (b) 100 net tons or over.
3 Issuing permit to foreign vessel to proceed from district to district, and receiving manifest.
4 Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade.
5 Receiving post entry.
6 Receiving official bond not otherwise provided for.
7 Certifying payment of tonnage tax for foreign vessels only.
8 Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated.

The published revised fee schedule shall remain in effect throughout the following year. **[T.D. 80-286.]**

(2) The fees shall be calculated in accordance with §§ 19.5(b) and 24.17(d), Customs Regulations (19 CFR 19.5(b), 24. 17(d)), and be based upon the amount of time the average service requires of a Customs officer in the fifth step of GS-9.

(3) The party requesting a vessel service described in paragraph (a)(1) of this section for which reimbursable overtime compensation is payable under 19 U.S.C. 267 or 19 U.S.C 1451 and § 24.16 of this chapter shall pay only the applicable overtime charge, and not both the overtime charge and the fee specified in the fee schedule.

(4) The revised fee schedule shall be made available to the public in Customs offices.

(5) The respective fees shall be designated in correspondence and reports by the applicable fee number. **[BMIN/BMs 23/39, 307/40, 363/41, 439/42, BMIN/CLS 119/36, 125/36. TDs 49468, 53385, 55893, 56251, 56340, 69-266, 80-25.]**

(b) Fee 1 shall be collected at the first port of entry only. It shall not be collected from a vessel entering directly from a port in noncontiguous territory of the United States nor from one entering at a port on a northern, northeastern, or northwestern frontier otherwise than by sea. **[TD 69-266.]**

(c) Fee 2 shall be collected at the final port of departure from the United States. It shall be collected from a yacht or public vessel which obtains a clearance, but shall not be collected from a vessel clearing directly for a port in noncontiguous territory of the United States nor from one clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea. It shall be collected only upon the first clearance each year of a vessel making regular daily trips between a port of the United States and a port in Canada wholly upon interior waters not navigable to the ocean. **[TD 69-266.]**

(d) Fee 3 shall be collected for granting a permit to a foreign vessel to proceed to another Customs district, but not for a permit to proceed to a port in the same district. It shall be collected from a foreign vessel clearing directly for a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel proceeding on a voyage by sea from one district in the United States to another such district via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions. **[TDs 51912, 69-266.]**

(e) Fee 4 shall be collected for receiving the manifest of a foreign vessel arriving from another Customs district, but not arriving from a port in the same district. It shall be collected from a foreign vessel entering directly from a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel which arrives in one district in the United States from another such district on a voyage by sea via a foreign port. Only one fee shall be collected in the case of simultaneous vessel transactions. **[TDs 51912, 69-266.]**

(e-1) Fee 5 shall be collected from a foreign or American vessel at each port where the vessel is required to file a post entry in accordance with the provisions of § 4.12(a)(3). An original post entry may be supplemented by additional post entries in instances where items were omitted from the original post entry. A separate fee shall be collected for each supplemental post entry made to the original post entry. **[TD 74-194.]**

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[134] "The High Contracting Parties agree that vessels and wrecking appliances, either from the United States or from the Dominion of Canada, may salve any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St. Lawrence River through which the International Boundary line extends, and, in Lake Ontario, Lake Erie, Lake St. Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St. Clair, and Ste. Marie, and the Canals at Sault Ste. Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance of thirty miles from the International Boundary on such Coasts.

"It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salving operations of such vessels or wrecking appliances.

"Vessels from either country employed in salving in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salving takes place." (35 Stat. 2036)

[135] "Canadian vessels and wrecking appurtenance may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

"This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and Canal: * * *." (46 U.S.C. 725)

The waters of Lake Michigan are not contiguous to the Dominion of Canada within the meaning of this statute.

[136] "The High Contracting Parties agree that vessels and rescue apparatus, public or private, of either country, may aid or assist vessels of their own nationality, including the passengers and crews thereof, which may be disabled or in distress on the shores or within the territorial waters of the other country within a radius of seven hundred and twenty nautical miles of the intersection of the International Boundary Line and the coast of the Pacific Ocean, or within a radius of two hundred nautical miles of the intersection of the International Boundary Line and the coast of the Gulf of Mexico." (49 Stat. 3360) (R.S. 4370, as amended; 46 U.S.C. 316) [28 F.R. 1, Dec. 31, 1963, as amended by T.D. 69-266, 34 F.R. 20423, Dec. 31, 1969]

(f) Fee 6 is collected principally from vessels in the Alaska trade. **[TDs 52025, 69-266.]**

(g) Fee 7 shall be collected from foreign vessels only. **[TDs 53050, 53336, 69-266.]**

(h) Fee 8 shall be collected for each copy of any official document, whether certified or not, furnished to any person other than a Government officer. (Sec. 501, 65 Stat. 290; 92 Stat. 888 (31 U.S.C. 483a, Pub. L. 95-410)) **[TDs 52155, 69-266.]**

§ 4.99 Forms: Substitution.

(a) Customs forms 1300, 1301, 1302, 1302-A, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed—

(1) Conform to the official Customs forms in wording arrangement, style, size of type, and paper specifications;

(2) Conform to the official Customs forms in size, except that:

(i) Each form may be printed on metric A4 size paper, 210 by 297 millimeters (approximately 8 1/4 by 11 2/3 inches).

(ii) The vertical format of Customs forms 1300, 1301, 1302-A, 1303, and 1304 may be increased in size up to a maximum of 14 inches.

(iii) Customs form 1302 may be reduced in size to not less than either 8 1/2 by 11 inches or 210 by 297 millimeters (metric A4 size). If Customs form 1302 is reduced in size, the size of type used may be reduced proportionately.

(b) If instructions are printed on the reverse side of the official Customs form, the instructions may be omitted from the privately printed forms, but the instructions shall be followed.

(c) The district director, in his discretion, may accept a computer printout instead of Customs form 1302 for use at a specific port. However, to insure that computer printouts may be used at all ports, the private party or foreign government first must obtain specific approval from headquarters, U.S. Customs Service.

(d) Forms which do not comply with the requirements of this section are not acceptable without the specific approval of the Commissioner of Customs. **[TD 79-255.]**

§ 4.100 Licensing of vessels of less than 30 net tons.

(a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935, shall be addressed to the Secretary of the Treasury and delivered to the district director of the district in which are located the ports where foreign merchandise is to be imported in such vessel. **[TD 72-211.]**

(b) The application shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) If the district director finds that the applicant is a reputable person and that the revenue would not be jeopardized by the issuance of a license, he may issue the license for a period not to exceed 12 months, incorporating therein any special conditions he believes to be necessary or desirable, and deliver it to the licensee.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The Secretary of the Treasury or the district director in whose office the license was issued may revoke the license if any of its terms have been willfully or intentionally violated or for any other cause which may be considered prejudicial to the revenue or otherwise against the interest of the United States. (Sec. 6, 49 Stat. 519; 19 U.S.C. 1706)

§ 4.101 Prohibitions against Customs officers and employees.

No Customs officer or employee shall: **[TD 78-394]**

(a) Own, in whole or in part, any vessel except a yacht or other pleasure boat;

(b) Act as agent, attorney, or consignee for the owner or owners of any vessel, or of any cargo or lading on board the vessel; or

(c) Import or be concerned directly or indirectly in the importation of any merchandise for sale into the United States.

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY—Revised & Adopted as Part 123.

PART 6—AIR COMMERCE REGULATIONS

Sec.

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6.25 Flights to and from the Virgin Islands; provisions applicable.

Authority: R.S. 251, sec. 624, 46 Stat. 759, secs. 904, 1109, 72 Stat. 787, 799, as amended, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, 49 U.S.C. 1474, 1509, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted. **[TD 54871]**

Source: 28 FR 14626, Dec. 31, 1963, unless otherwise noted.

Cross Reference: For Air Commerce Regulations issued by the Surgeon General of the Public Health Service, Department of Health, Education, and Welfare, *see* 42 CFR 71.501 to 71.506.

§ 6.1 Scope and definitions.

(a) The regulations in this part shall not be applicable in the islands of Guam, Midway, American Samoa, Wake, Kingman Reef, and Johnson Island and other insular possessions not specified herein. The regulations shall be applicable to aircraft flying to and from the Virgin Islands of the United States in accordance with § 6.25. **[TDs 52706, 53634, 53933, 75-86.]**

(b) The term "United States" when used in a geographical sense means the territory comprising the several States, Territories, possessions, and the District of Columbia, including the territorial waters thereof and the overlying air space, but shall not include the Canal Zone. **[TD 53634.]**

(c) The term "area" shall mean either one of the following: **[TDs 53634, 55876.]**

(1) The States and the District of Columbia,

(2) Puerto Rico.

(d) The term "aircraft" means civil aircraft, that is, any aircraft not used exclusively in the governmental service of the United States or a foreign country, and includes any government-owned aircraft engaged in carrying persons or property for commercial purposes. **[TD 53634.]**

(e) The term "aircraft commander" means the person serving on the aircraft having charge or command of its operation and navigation. **[TD 53634.]**

(f) The term "scheduled airline" means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from area to area, and holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity issued by the Civil Aeronautics Board. **[TDs 53634, 54871.]**

(g) The term "authorized person" (authorized agent of an owner or operator) means any person who by written authority, satisfactory to the district director, has been designated to act for and in the place of an owner or operator of a scheduled airline or who by power of attorney has been authorized to act for and in the place of an owner or operator of a nonscheduled airline. **[TD 53743.]**

(h) The term "international airport" means any airport designated by the Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft arriving in the United States from any place outside thereof and for the merchandise carried on such aircraft, by the Attorney General as a port of entry for aliens arriving on such aircraft, and by the Secretary of Health, Education, and Welfare as a place for quarantine inspection. **[TD 53634.]**

§ 6.2 Landing requirements.

(a) *Place of landing.* Every aircraft coming into any area from any place outside thereof shall land in such area unless exempted from this requirement by the Administrator of the Federal Aviation Administration, Washington D20591. The first landing shall be at an international airport unless permission to land elsewhere shall first be granted, except that permission is not required for an emergency or forced landing or with respect to the procedure prescribed in paragraph (b) of this section, relating to private aircraft. In the case of scheduled aircraft operated by scheduled airlines, such permission shall be granted by the regional commissioner of Customs, or his designee, of the region where the place of first landing will occur, and in all other cases by the district director or other Customs officers in charge at the port of entry or Customs station nearest the intended place of first landing. For procedure to be followed in the case of emergency or forced landing, see paragraph (h) of this section. When permission is granted to land elsewhere than at an international airport, the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other Agency likely to be concerned with the landing shall be immediately notified by the Customs officer granting the permission. In cases where such permission is given, the owner, operator, or person in charge of the aircraft shall pay the additional expenses, if any, incurred in inspecting the aircraft, passengers, employees, and merchandise, including baggage, carried therein. When such permission is granted to a scheduled airline to land aircraft operating on a schedule, no inspection charge shall be made except for overtime service performed by Customs officers. **[TDs 49282, 50464, 51595, 51674, 51741, 52054, 52355, 52706, 53634, 54653, 54871, 56181, 74-94, 75-201, 78-109.]**

(b) *Advance notice of arrival*—(1) *Applicability*. All aircraft, except as provided in subparagraph (3) of this paragraph, before coming into any area from any place outside the United States, for security reasons, and in order to avoid the penalties provided for in § 6.11, shall furnish a timely notice of intended arrival, either by or at the request of the commander of the aircraft, through the Federal Aviation Administration flight notification procedures or directly to the district director or other Customs officer in charge at the nearest intended place of first landing in such area. That officer shall notify the officers in charge of the other Government services. In the case of private aircraft passing through the zone referred to in paragraph (a) of § 6.14 and crossing into the United States within that zone, advance notice shall be furnished in accordance with the procedure prescribed in § 6.14. **[TDs 52995, 53634, 54244, 75-201.]**

(2) *Furnishing advance notice*. When, by reason such as departure from a remote place, dependable facilities for giving notice are not available, a landing shall be made at a place where the necessary facilities do exist before coming into any area from any place outside the United States. However, radio equipment of the plane may be used if this will result in the giving of adequate and timely notice. **[TDs 53634, 75-201.]**

(3) *Exception for scheduled airline to the requirement of giving advance notice*. Advance notice shall not be required in the case of aircraft of a scheduled airline arriving in accordance with a regular schedule filed with the district director for the district in which the place of first landing is situated. **[TD 75-201.]**

(4) *Contents of advance notice*. The advance notice of arrival shall specify the following: **[TD 75-201.]**

(i) Type of aircraft and registration marks;

(ii) Name of aircraft commander;

(iii) Place of last departure;

(iv) International airport of intended landing or other place at which landing has been authorized by Customs;

(v) Number of alien passengers;

(vi) Number of citizen passengers; and

(vii) Estimated time of arrival.

(5) *Timeliness of advance notice*. The advance notice must be received by Customs in sufficient time to enable the officers designated to inspect the aircraft to reach the international airport or such other place of first landing prior to the arrival of the aircraft, except as provided in § 6.14. **[TD 75-201.]**

(6) *Responsibility of aircraft commander upon landing*. If, upon landing in any area the aircraft commander finds that United States Government inspection officers have not arrived, the commander shall hold the aircraft and any merchandise, including baggage, thereon intact and keep the passengers and crewmembers in a segregated place until the inspection officers arrive. **[TD 75-201.]**

(c) *Permission to discharge or depart*. No aircraft arriving in the United States from any place outside thereof, or in an area from another area carrying residue foreign cargo (see § 6.9) shall depart from the place of landing, or discharge any passengers or merchandise, including baggage, without receiving permission from the Customs officers in charge. **[TD 53634.]**

(d) *Permit to proceed; foreign aircraft*. (1) Aircraft are subject to Customs entry when brought in for repairs or when otherwise treated as imported articles. Before an aircraft which is not treated as an imported article, which is registered in a foreign country, and which arrives in the United States carrying passengers for hire or merchandise is ferried (proceeds in ballast) from the airport of first arrival to one or more airports in the United States, its commander shall obtain from the district director at the airport of first arrival a permit to proceed on Customs Form 7507 allowing the aircraft to proceed from airport to airport in the United States, which shall be retained on board such aircraft while in the United States. At each airport visited, the Customs officer there, or, if there is none, the airport manager, shall make an endorsement on the back of such permit showing the name of the airport, date and time of arrival, date and time of departure, and purpose of the visit. The permit shall be surrendered to the district director at the port of final clearance for a foreign destination, who shall satisfy himself prior to the issuance of clearance that the aircraft received proper Customs treatment while in this country. The permit shall then be returned to the district director at the port of issue. **[TDs 53065, 53634, 56288, 75-86.]**

(2) A copy of the permit shall be retained by the district director at the port where issued. If within 60 days after the issuance of such permit the said district director does not receive a report of the outward clearance of the aircraft covered thereby, the matter shall be reported to the Customs agent in charge of the area involved for investigation. **[TD 53634.]**

(3) Civil aircraft of domestic origin registered in the United States and arriving from a foreign country with passengers carried for hire or merchandise, after proper Customs treatment of all such passengers and merchandise, may be allowed to proceed upon their identity being established. Civil aircraft of foreign origin registered in the United States and arriving from a foreign country in

international traffic shall be subject to the following provisions: **[TDs 53634, 55482]**

(i) If such aircraft has been entered as an imported article and duty has been paid on a previous arrival, it may be permitted to proceed otherwise than as an imported article upon a declaration by the aircraft commander identifying the port, date, and number of the duty-paid entry filed upon such previous arrival.

(ii) If such aircraft has not been entered as an imported article subject to duty, in addition to any other documents required in connection with a flight in continuation of the international traffic, it shall proceed under a permit to proceed on Customs Form 7507 which shall specifically identify the aircraft number, country of manufacture, name of the manufacturer, flight number, port, and date of arrival for the flight on which it arrived in the United States, and action shall be taken thereon as specified in subparagraphs (1) and (2) of this paragraph. It shall proceed without being treated as an imported article only if it is in continuous use solely in international traffic or use incidental thereto and will depart from the United States to a destination outside thereof in international traffic or in ballast. If such aircraft which has not been entered as an imported article is withdrawn from international traffic or diverted in the United States to a use other than international traffic or use incidental thereto, it shall be subject to entry as an imported article and dutiable at the rate in effect at the time of withdrawal or diversion.[1] **[TD 75-86]**

(e) *Permits to unlade and lade.* A permit on Customs Form 3171 running for any period up to 1 year, but not longer than the period of the supporting bond, may be issued to any and all aircraft to unlade passengers or merchandise, including baggage, or to lade merchandise or baggage during official hours. Except when a term permit has been issued and arrangements are made locally so that the proper Customs officer will be notified during official hours in advance of the rendering of the services as to the specific nature of the services desired and the exact times they will be needed, a separate application for a permit shall be filed in the case of each arrival or departure. The permit shall not be issued (previously issued term permits shall be revoked) unless the carrier complies with the provisions of § 4.30 of this chapter regarding terminal facilities and employee lists, and the required cash deposit or bond, on Customs Form 7567 or 7569, has been received. **[TDs 52054, 53634, 55386, 68-247, 72-189.]**

(f) *Special licenses to unlade and lade.* A special license on Customs Form 3171 running for any period up to 1 year, but not longer than the period of the supporting bond, may be similarly issued to any and all aircraft to unlade passengers or merchandise, including baggage, or to lade merchandise or baggage from such aircraft at night or on a Sunday or holiday when Customs supervision is required. A previously issued term special license shall be revoked unless the carrier complies with the provisions of § 4.30 of this chapter regarding terminal facilities and employee lists, and the required cash deposit or bond, on Customs Form 7567 or 7569, has been received. (See § 24.16(c) of this chapter as to private aircraft.) Separate bonds shall be required if overtime services are requested by different principals. **[TDs 52054, 53634, 68-247, 72-189.]**

(g) *Waiver of bond requirement.* The furnishing of a bond on Customs Form 7567 or 7569, or a cash deposit in lieu of the bond, required by paragraphs (e) and (f), may be waived by the district director to ensure the prompt and orderly clearance of the aircraft, passengers, or merchandise, including baggage, if he is convinced that the revenue is protected and that all Customs requirements are satisfied. **[TDs 78-109.]**

(h) *Emergency or forced landing.* Should an emergency or forced landing be made by an aircraft coming into the United States from any place outside thereof, or into an area from a place outside the areas defined in § 6.1(c) of the regulations of this part, or while traveling from airport to airport in the areas of the United States under a permit to proceed (see § 6.9(b) of the regulations of this part), the aircraft commander shall not allow any merchandise, baggage, passengers, or crew members not previously cleared by Customs or other applicable Government agency to be removed, or to depart from the landing place without permission of a Customs officer, unless such removal or departure is necessary for purposes of safety, communication with Customs authorities, or the preservation of life, health, or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft, shall communicate with the Customs officer at the intended place of first landing or at the nearest international airport or other Customs port of entry in that area and make a full report of the circumstances of the flight and of the emergency or forced landing. When an aircraft carrying precleared crew, passengers and baggage or merchandise lands for any reason at an airport in the United States other than the scheduled or intended port of arrival, written notice must be received from the airline representative or aircraft commander both at the Customs office at the place of preclearance and at or for the place of intended landing within seven days, unless notice is otherwise given in accordance with a procedure previously agreed to with the carrier by the district director involved. Mail carried as such may be removed from such aircraft upon making an emergency or forced landing, but if so removed shall be delivered at once to a responsible officer or employee of the Postal Service. (Secs. 14, 448, 450, 451, 644, 67 Stat. 516, 46 Stat. 714, as amended, 715, as amended, 761; 19 U.S.C. 1322, 1448, 1450, 1451, 1644) **[TDs 51595, 53634, 54544, 55468, 55876, 78–109, 55487.]**

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[1] The Bureau of Customs made the following ruling on the status of foreign aircraft wrecked while engaged in international traffic: "If the accident results in substantial demolition of the aircraft, no entry is required and no duty accrues with respect to any portion of the wreckage. If the accident does not result in substantial demolition of the aircraft, and all salvageable portions and parts of the wrecked aircraft are exported, the aircraft is not considered to have been withdrawn from international traffic so as to subject the aircraft as a whole or any portion or part thereof to regular customs entry and duty as imported merchandise. However, if the accident does not result in substantial demolition of the aircraft and the wrecked aircraft or any salvageable portion or part thereof is not exported, an entry is required for the retained damaged aircraft, or salvageable portion or part, as the case may be, and duties will be assessed thereon in accordance with its condition immediately after the casualty." T.D. 55063(1), March 4, 1960.

§ 6.3 Entry and clearance.

(a) Aircraft coming into any area from any place outside the United States shall be entered in such area if landing is made therein and if carrying passengers for hire or commercial cargo (see § 6.7). Aircraft utilized by members of air travel clubs, whether such aircraft be owned or chartered by the air travel clubs, shall be treated as carrying passengers for hire. Aircraft proceeding from one area into another shall be entered in the latter area if landing is made therein and if carrying residue cargo. Aircraft not required to enter under this paragraph are subject to other customs requirements (see § 6.2). **[TDs 45824, 50464, 52054, 53634, 76–41.]**

(b) Entry shall be made by the aircraft commander, or by any other authorized agent of the owner or operator of the aircraft (hereinafter referred to as an authorized person),[1a] at the international airport at which the first landing is made in the area. If, pursuant to § 6.2(a), the first landing occurs at a place not an international airport, entry shall be made at the nearest international airport or Customs port of entry, unless some other place is designated for that purpose. **[TDs 53634, 54653, 55487.]**

(c) Aircraft departing for foreign territory: (1) Carrying, for hire, either passengers or merchandise; (2) Taking aboard or discharging, for hire, either passengers or merchandise anywhere outside the United States; or (3) Carrying residue cargo from one area to another, shall be cleared in the area from which departing. Clearance may be obtained from the Customs officer in charge by telephone if the aircraft is departing for foreign territory empty, or if it is carrying only passengers for hire or noncommercial cargo for which shipper's export declarations are not required. The request for telephone clearance must be received by the Customs officer in charge with sufficient time remaining before departure to ensure that Customs may undertake any necessary examination of the aircraft and cargo. Aircraft utilized by members of air travel clubs, whether such aircraft be owned or chartered by the air travel clubs, shall be treated as carrying passengers for hire. In accordance with provisions of regulations of the Bureau of the Census (15 CFR Part 30), any aircraft not otherwise required to clear which is carrying merchandise from one to another area, or from an area to any possessions of the United States, must obtain permission to depart (see § 6.8 of the regulations of this part). If an aircraft is departing on a flight from the United States and is not required to clear under the preceding provisions of this paragraph, it must, nevertheless, obtain Customs clearance if by reason of the foreign destination of the aircraft a validated license from the International Trade Administration is required by Part 372, International Trade Administration Regulations (15 CFR 372). Aircraft not under the export licensing authority of the Department of Commerce are subject to the export licensing authority of the Department of State and are specified in Category VIII in the United States Munitions List (22 CFR Part 121). Such aircraft may depart from the United States only under appropriate Department of State license whether or not subject to clearance under this section.[2] **[TDs 53634, 55354, 55876, 76–41, 82–92.]**

(d) The clearance or permission to depart shall be obtained by the aircraft commander or an authorized agent at the Customs port of entry (whether or not an international airport) at or nearest the place of last take-off from the area, unless some other place is designated for that purpose by the district director of Customs. **[TDs 53634, 55876.]**

(e) This section shall not apply to the entry of aircraft of scheduled airlines complying with the terms of § 6.4 nor to the clearance or departure of such aircraft complying with the terms of § 6.5, nor to the clearance of any aircraft holding a permit issued by the Secretary of Commerce authorizing departure without clearance. **[TDs 53634, 55876.]**

§ 6.3a. Entry and Clearance; Cuba.

(a) Unless otherwise authorized by the Regional Commissioner of Customs, Miami, Florida, the owner or person in command of any aircraft clearing the United States for, or entering the United States from, Cuba, whether the aircraft is departing on a temporary sojourn, or for export, shall:

(1) Clear or obtain permission to depart from, or enter at, the Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida;

(2) Before arrival from Cuba, furnish a notice of intended arrival to the Customs Service, either by or at the request of the commander of the aircraft, not less than 15 minutes before crossing the United States coast or border. The notice shall be furnished through the Federal Aviation Administration flight notification procedures or directly to the Customs officer in charge at the Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida. The notice shall include the following:

(i) Aircraft registration number;

(ii) Name of aircraft commander;

(iii) Number of United States citizen passengers;

(iv) Number of alien passengers;

(v) Place of last foreign departure;

(vi) Estimated time and location of crossing United States coast or border; and

(vii) Estimated time of arrival.

(3) Upon arrival, present a manifest of all passengers on board, as required by 8 CFR 231.1(b), to an officer of the U.S. Immigration and Naturalization Service or to a Customs officer acting as an Immigration officer.

(4) As a condition precedent to clearance, present to Customs:

(i) The documents required by section 6.8 of this Part; and

(ii) A validated license issued by the Department of Commerce, as provided for in 15 CFR 371.19, or a license issued by the Department of State, as provided in 22 CFR issued by the Department of State, as provided in 22 CFR Part 123. See footnote (²) to section 6.3 of this Part.

[1a] Section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431): "(b) Whenever a manifest of articles or persons on board an aircraft is required for customs purposes to be signed, or produced or delivered to a customs officer, the manifest may be signed, produced, or delivered by the pilot or person in charge of the aircraft, or by any other authorized agent of the owner or operator of the aircraft, subject to such regulations as the Secretary of the Treasury may prescribe. If any irregularity of omission or commission occurs in any way in respect of any such manifest, the owner or operator of the aircraft shall be liable for any fine or penalty prescribed by law in respect of such irregularity."

[2] Information regarding requirements under the regulations of the Departments of Commerce or State for licensing of aircraft departing from the United States, whether for temporary sojourn abroad or for export, may be obtained at any customhouse. For licensing procedure for articles enumerated in the United States Munitions List, see 22 CFR Part 123.

(b) No passenger arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart, before the passenger is released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of that agency.

(c) All other provisions of this part relating to entry and clearance of aircraft are applicable to aircraft subject to this section. **[T.D. 80-116, 80-264.]**

§ 6.4 Entry of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airlines coming into any area from any place outside the United States shall be entered in the area of first landing. **[CIE 80/54; TDs 50464, 53634.]**

(b) Aircraft operated by scheduled airlines coming from one area into another area shall be entered therein if carrying residue cargo (§ 6.9). **[TDs 52902, 53634.]**

(c) Entry required by this section in an area shall be made at the place of landing provided for under § 6.2. **[TD 53634.]**

§ 6.5 Clearance of aircraft of scheduled airlines.

(a) Aircraft operated by scheduled airline departing for any place outside the United States may clear from the area of departure, but clearance shall be mandatory only during any period covered by a proclamation of the President that a state of war exists between foreign nations, or the aircraft is— **[TDs 50464, 53634.]**

(1) Beginning a flight in that area; or

(2) Carrying from that area merchandise which must be listed in its general clearance declaration (§ 6.8).

(b) Aircraft operated by scheduled airlines departing from one to another area shall clear in the area from which departing if carrying residue foreign cargo, and, when clearance is not required, if transporting merchandise from one to another area or from an area to possessions of the United States shall obtain permission to depart from the district director when required for the purposes of regulations of the Bureau of the Census (15 CFR Part 30). **[TDs 50503, 52902, 53634, 55876.]**

(c) Clearance required by this section or permission to depart may be obtained by the aircraft commander or an authorized person at the Customs port of entry (whether or not an international airport) at or nearest each place at which merchandise or passengers, or both, are taken aboard for discharge beyond the area. In such case, the clearance, or permission to depart, shall be limited to the passengers and merchandise taken aboard at such place. Otherwise clearance, or permission to depart, shall be obtained at the Customs port of entry (whether or not an international airport) at or nearest the place of last take-off in the area unless some other place is designated by the district director. **[TDs 53634, 55876.]**

§ 6.6 Documents; form.

(a) The forms described in § § 6.7 and 6.8 shall be the primary documents required for entry and clearance of aircraft. The forms shall be approximately but not to exceed 8 1/2″ wide and 14″ long and shall be on white bond paper that will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17″ × 22″, 1,000-sheet basis; if printed or typewritten, at least 25 percent rag, substance 26, 17″ × 22″, 1,000-sheet basis. These forms and the entries thereon must be dittoed, typewritten, or printed with ink, or dye that will not fade or "feather" within 20 years. The forms to be used for the entry and clearance of the aircraft, passengers, crewmembers, and merchandise carried thereon shall be forms approved by the Commissioner of Customs. If a document or the entries thereon are in a foreign language, a translation in English shall be furnished with the original and with each copy. **[TDs 52018, 52967, 53634, 54482, 56439]**

(b) The Customs forms described in § § 6.7 and 6.8 are in the English language and are obtainable from district directors upon payment by the owner or operator of the aircraft. These forms may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the official forms currently in use, with respect to size, wording arrangement, style and size of type, and paper specifications. A small quantity of each of the forms shall be set aside by district directors for free distribution and official use. **[TDs 53634, 54482, 56439.]**

(c) Customs officers shall accept an inward or outward air cargo manifest covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c) of this chapter) that the manifest has been prepared on the basis of information furnished by the shipper. However, the use of qualifying words in no way limits the responsibility to submit accurate manifests or in any way qualifies the declaration as to the accuracy of the manifest. (Sec. 431, 46 Stat. 710, as amended; 19 U.S.C. 1431) **[TD 74-97.]**

§ 6.7 Documents for entry.

(a) At the time any aircraft arriving from outside the areas of the United States lands in an area in which entry is required by § 6.3 or 6.4, the aircraft commander or an authorized person shall deliver an inward general declaration on Customs Form 7507, or on a form conforming thereto, and shall show thereon all of the information called for by the official form, unless any of such information is otherwise furnished as provided in this section, and shall deliver any other applicable documents as specified in this section. If an aircraft proceeds from one to another area of the United States or from one to another port in the same area carrying residue cargo or uncleared passengers, the aircraft commander or an authorized person shall deliver the documents specified in § 6.9 (c) or (d). **[TDs 51595, 52967, 53634, 53991, 55348, 55413, 55579, 55978, 56066.]**

(b) Some of the information called for by the official form of inward general declaration may be alternatively furnished as provided herein. Some of the documents specified herein may not be required on a separate sheet or form where it is indicated that the information required on such documents may be included with information on another document or form. **[CCLs 37 (supp. 1), 38/57; 52/58; TDs 51674, 52018, 52143, 52437, 52705, 52967, 53482, 53634, 53743, 53947, 53991, 54482, 54722, 55413.]**

(1) Crew manifest: A crew manifest shall be furnished with the general declaration except upon arrival of an air-

craft directly from Canada on a flight originating there in which case merely the total number of crewmembers need be shown on the inward general declaration. The crew manifest shall be furnished by showing the full name (surname, given name and middle initial) of each crewmember in the column headed "Total Number of Crew" on the inward general declaration, or by showing such names on a separate, appropriately identified document.

(2) Crew purchases: A crew purchase list shall be furnished with the general declaration. Articles entered by crewmembers not required to file crew declarations by section 148.62 of this chapter shall be listed opposite the name of the crewmember on the general declaration or on an attached separate crew purchase list. Any articles required by section 148.62 of this chapter to be declared on Customs Form 5129, need not be listed if such crew declarations are securely attached to the general declaration or attached list, and the following statement appears thereon:

Crew purchases as per attached Crew Member's Declarations.

In the case of an aircraft arriving direct from Canada on a flight which originated in that country, no crew purchase list shall be required, but any crew declarations shall be attached to the general declaration and the total number thereof shall be shown on the face of the general declaration with the figure for the total number of crew. **[TD 78-99.]**

(3) A cargo manifest for all cargo on board shall be submitted with the general declaration. The cargo manifest shall be on Customs Form 7509 except as otherwise provided in this paragraph.

(i) When Form 7509 is used, the full information called for by the official form shall be shown thereon except that the detailed information about the cargo shipped under air waybills may be furnished by securely attaching to the cargo manifest a copy of each air waybill, by listing the numbers thereof on the manifest, and by noting the statement "Cargo as per Air Waybills Attached" on the manifest.

(ii) Customs Form 5119-A may be used as the cargo manifest if there is on board only cargo not exceeding $250 in value which is to be entered on such form. **[TD 78-99.]**

(iii) Customs Form 7523 may be used as the cargo manifest if there is on board only cargo which may be entered on that form.

(iv) No cargo manifest is required for merchandise, including baggage and stores, arriving from and departing for a foreign country on the same through flight, although any such document on board may be inspected, except that any arms, ammunition, or implements of war on board which require a license issued by the Secretary of State shall be manifested on every arrival.

(v) On the cargo manifest or on a separate list attached thereto in which case the manifest shall bear the notation "Stores list attached," there shall be shown all alcoholic beverages, tobacco products, narcotic drugs, and bonded or foreign merchandise arriving as stores as well as all equipment of a type requiring a license as specified in subdivision (iv) of this subparagraph.

(vi) In the case of aircraft of scheduled airlines, domestic supplies and equipment not subject to license (unless subject to a duty equal to any internal-revenue tax from which such articles were previously excepted) and any fuel need not be included in the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" is noted on the cargo manifest or separate stores list attached thereto.

(vii) Unaccompanied baggage arriving in the United States under a check number from any foreign country by air shall be shown on the cargo manifest in columns under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing columns two blank columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," shall be provided on the cargo manifest for use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(c) One copy of the general declaration and one copy of each attached manifest shall be delivered by the aircraft commander or an authorized person immediately to the Customs officer in charge at the airport or other place of arrival. **[TDs 53634, 53743, 53991.]**

(d) The provisions of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), are applicable to any aircraft of United States registry engaged in trade and arriving in the United States, as defined in section 401(h), Tariff Act of 1930, as amended (19 U.S.C. 1401(h)), whether from a contiguous or noncontiguous foreign country, and a notation as to any equipment installed on, or repairs made to, any such aircraft in a foreign country shall be made in the aircraft journey log book, which shall set forth a general description of the equipment or repairs and a statement of any necessity therefor. The aircraft commander or an authorized person, on the first subsequent arrival of the aircraft in the United States, shall exhibit the journey log book to the Customs officer at the place of arrival. A declaration on Customs Form 3415, to the effect that no equipment was purchased, or repairs made, in a foreign country, shall not be required in any case for any such aircraft. Except as specified hereafter in this paragraph, any such equipment purchased or repairs made shall be subject to entry and deposit of duty as prescribed by § 4.14 of this chapter, but the following may be added to the entry in lieu of the filing of Customs Form 3415: **[TDs 52316, 53634, 53991, 78-99.]**

This entry contains a complete account of the equipment purchased for and the repairs made to the within-mentioned aircraft during the flight covered hereby, together with the cost of such equipment and the expenses of such repairs (including the cost of installation of equipment and the cost of repair parts and material used). Application is hereby made for the ascertainment of the amount of duty due under section 466, Tariff Act of 1930, as amended.

(e) A scheduled airline or an air carrier generally authorized to operate contract passenger or cargo flights and operating between the United States and foreign territory shall not be required to file a declaration on Customs Form 3415 or an entry on Customs Form 7535 or deposit duty or give a bond therefor for equipment purchased for or repairs made to the aircraft when: **[TDs 53634, 53991, 54871, 74-204.]**

(1) Such equipment or repairs were made necessary by reason of stress of weather or other casualty occurring since the aircraft's last departure from the United States; or

(2) Such equipment or repairs were necessary to secure the safety and airworthiness of the aircraft, provided the necessity of such equipment or repairs was unforeseen prior to the time of the aircraft's last departure from the United States; or

(3) Such equipment or repairs were necessary to comply with regulations of the Federal Aviation Administration or other Agency of the United States or of a foreign government, provided the necessity for such equipment or repairs was unforeseen prior to the time of the aircraft's last departure from the United States; or

(4) Such equipment installed and materials used in making the repairs were manufactured or produced in the United States and the work incident to such installation or repairs was performed by the regular crew of the aircraft or by residents of the United States.

Whenever entry is not required in any of the foregoing circumstances, the following statement shall be included on the general declaration or attached air cargo manifest:

> Entry for equipment purchased or repairs made to this aircraft while in a foreign country not required under § 6.7(e) of the Customs Regulations.

In all cases where entry is not required the district director shall be satisfied from an inspection of the journey log book and such further investigation as he may deem necessary that the facts with respect to the installation of the equipment and making of repairs were as set forth in paragraphs (e)(1), (2), (3), or (4) of this section.

(f) The provisions of section 446, Tariff Act of 1930 (19 U.S.C. 1446), relating to supplies and stores retained on board, shall be applicable to aircraft arriving in the United States from any foreign port or place. **[TDs 52054, 53634, 53991.]**

[Reserved]

(h)(1) Aircraft commanders or agents shall notify the district director of shortages (merchandise and unaccompanied baggage manifested, but not found) or overages (merchandise and unaccompanied baggage found, but not manifested) of merchandise and unaccompanied baggage. **[TDs 53991, 54482, 55436, 71-22, 76-81.]**

(2) Shortages shall be reported to the district director in the following manner:

(i) By submission, within 30 days after the date of entry of the aircraft, of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears a signed declaration of the aircraft commander or an authorized agent reading, "I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reasons stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand;"

(ii) By endorsement on the importer's claim for shortage on Customs Form 5931, as provided for in § 158.3 of this chapter; or

(iii) By submission of Customs Form 5931 within 30 days after the date of entry of the aircraft.

(iv) Whichever of the three alternatives is followed, satisfactory evidence to support the explanation of the shortage shall be retained in the carrier's files for one year.

(3) Overages shall be reported to the district director within 30 days after the date of entry of the aircraft by completion of a post entry (section 440, Tariff Act of 1930, as amended) on a separate copy of the cargo manifest form marked or stamped "Post Entry," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears the signed declaration described in paragraph (h)(2)(i) of this section, or by submission of Customs Form 5931.

(4) The district director shall immediately advise the aircraft commander or agent of those discrepancies which are not reported by the aircraft commander or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the aircraft commander or agent. The aircraft commander or agent shall satisfactorily resolve the matter within 30 days after the date of such notification.

(5) Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the aircraft commander or agent, that there was a valid reason for the failure to so report); applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed, except that any penalty involving a manifest discrepancy resulting in an overage shall be $500 (see § 162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a nonnegligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. The fact that the aircraft commander or owner had no knowledge of a discrepancy shall not relieve him from the penalty. **[TD 79-160.]**

(6) A correction in the manifest shall not be required in the case of bulk merchandise if the district director is satisfied that the difference between the manifested quantity and the quantity unladden, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the airport, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing aircraft when the quantity and description of the merchandise in such packages are correctly given. (Sec. 644, 46 Stat. 761 Sec. 1109, 72 Stat. 799; 19 U.S.C. 1644, 49 U.S.C. 1509)

§ 6.8 Documents for clearance, or for certain departures.

(a) At the time of departure or, with Customs approval, if the cargo is available for inspection, at any time before departure, of any aircraft from any area from which clearance is required by § § 6.3 or 6.5, the aircraft commander or an authorized person shall deliver to Customs an outward general declaration, a cargo manifest and any required shipper's export declarations for all cargo on the aircraft (and for aircraft itself, if it is being exported from the United States for foreign account). If cargo is on board the aircraft, an outward general declaration shall not be required if the following statement, signed by the aircraft commander or an authorized person, is on the cargo manifest:

I declare that to the best of my knowledge and belief this manifest contains an exact and true account of all cargo on board this aircraft.

Signed ______________________________

(Aircraft Commander or Authorized Person)

If no cargo is on board, an outward general declaration shall not be required if the following statement, signed by the aircraft commander or an authorized person, is on the cargo manifest:

I declare that there is no cargo on board this aircraft.

Signed ______________________________

(Aircraft Commander or Authorized Person)

The aircraft commander or authorized person also shall deliver a proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture (9 CFR pt. 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. If required, any shipper's export declarations and cargo manifest may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, in which case completed shipper's export declarations and the completed cargo manifest are to be delivered pursuant to the bond not later than the fourth day after departure: *Provided,* That, during any period covered by a proclamation of the President that a state of war exists between foreign nations, no aircraft shall be cleared for a foreign destination until the completed cargo manifest and all required shipper's export declarations shall have been filed with the Customs officer in charge: *And provided further,* That no aircraft shall be cleared until the completed cargo manifest and all required shipper's export declarations have been filed with the Customs officer in charge if the aircraft is departing on a flight from the United States directly or indirectly to a country or other destination in country groups designated W, Y, or Z of the Export Regulations (15 CFR Part 370, Supplement No. 1). At the time of departure of an aircraft not required to clear which is transporting merchandise from one to another area or from an area to possessions of the United States, the documents prescribed in the regulations of the Bureau of the Census (15 CFR Part 30) must be filed before departure or a bond to produce the required documents timely and pro forma documents, when required by the district director, as prescribed in 15 CFR 30.24 must be filed. Clearance of the aircraft on such a flight is not required unless foreign residue cargo is being carried (see § 6.9), or unless the aircraft is of foreign registry and is not departing under the procedure provided for in § 6.2(d) or unless the aircraft is to proceed to a foreign destination thereafter. **[TDs 51595, 53634, 53354, 55396, 55413, 55876, 70-6, 76-241, 79-32, 82-92.]**

(b) The outward general declaration shall be on Customs Form 7507. Any cargo manifest required with such declaration shall be on Customs Form 7509. The full information required by the official forms shall be shown thereon except as otherwise provided in this paragraph. **[TDs 51760, 52018, 52143, 52484, 52967, 53634, 55413.]**

(1) In the case of shipments on an air waybill, a copy of each such document may be attached to the cargo manifest, the numbers of such air waybills listed in the body of the manifest, and the statement "Cargo as per Air Waybills Attached" noted on the manifest.

(2) On direct departures only, for shipments requiring a shipper's export declaration a copy of each export declaration may be attached to the cargo manifest. In such case the numbers of such declarations shall be listed on the cargo manifest in the column for air waybill numbers, and the statement "Cargo as per Export Declarations Attached" noted on the manifest.

(c) When the aircraft is departing directly from the United States, the general declaration required by this section shall be prepared in duplicate, with a single copy of each cargo manifest. In the case of clearance of a scheduled aircraft at an interior port two copies of each cargo manifest for cargo there laden are required if the aircraft is proceeding to another port before departure from the United States for a place outside thereof. For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or the air waybill or consignment note attached to the manifest and made a part thereof shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i.e. T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation. One copy of the general declaration and each air cargo manifest shall be delivered by the aircraft commander or an authorized person to the customs officer in charge to be retained by him as a record of outward clearance. However, if a cargo manifest is delivered in duplicate, with the appropriate statement as provided for in paragraph (a) of this section, the general declaration shall not be required. **[TDs 51760, 52018, 52967, 53634, 53893, 55354, 82-92.]**

(d) One copy of the general declaration for departure from the United States or one copy of the cargo manifest with the appropriate statement as provided for in paragraph (a) of this section, shall constitute a clearance certificate when endorsed by the Customs officer in charge to show that clearance is granted. When a scheduled aircraft obtains clearance at a port other than the port at or nearest the place of last takeoff, a copy of the cargo manifest shall be attached to and accompany the general declaration endorsed at such port for any necessary use at subsequent United States ports. In such a situation, if the cargo manifest contains the appropriate statement as provided for in paragraph (a) of this section, the general declaration shall not be required. **[TDs 51760, 53634, 55354, 82-92.]**

(e) In any case that merchandise (other than residue cargo which requires documentation in every instance as specified in § 6.9 of the regulations of this part) destined from one to another area of the United States is transported by aircraft on a direct flight between the areas, a cargo manifest shall be required only for any merchandise transported as cargo which is excepted from the filing of shipper's export declarations or for which shipper's export declarations cannot be timely filed. Any required cargo manifest and all required shipper's export declarations shall be filed with the district director at the place of departure. For cargo requiring shipper's export declarations, a declaration shall be made on the cargo manifest, or if none is hereinbefore required by this section, then either on the form for a cargo manifest or the form for making a general declaration. This declaration shall state either "Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on this flight except that listed on the cargo manifests" or "All required cargo documents will be filed within the 4-day bond period." If the latter declaration is used, when the shipper's export declarations and any required cargo manifest are in fact filed they shall be accompanied by the following declaration: **[TDs 51760, 52018, 52484, 52902, 53634, 55354, 55421, 55876.]**

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on

aircraft No. —— flight No. —— cleared direct for ———— on ————, except cargo listed on any cargo manifest required to be filed for such flight.

Airline..

Authorized Agent..

Customs officers may verify any of the above statements by examining the shipping records of the airline involved. (R.S. 4197, as amended, R.S. 4200, as amended; 46 U.S.C. 91, 92; sec. 644, 46 Stat. 761, 19 U.S.C. 1644)

§ 6.9 Residue cargo.[4]

(a) Aircraft arriving in the United States with cargo on board shown by the manifest to be destined to other ports in the same or in some other areas of the United States or outside the United States may be permitted to proceed with such cargo from port to port in the United States or to a foreign country for the unlading thereof under the procedure prescribed in paragraph (b) of this section, upon the giving of a bond on Customs Form 7567 or 7569. When an aircraft arriving from outside the United States has on board no cargo and immediate clearance is requested, it may be permitted to proceed if a bond on Customs Form 7567 or 7569 is on file covering such aircraft. **[CIE 632/59; TDs 52054, 53634.]**

(b) When applying for clearance from the airport or place of first entry in an area of the United States, the aircraft commander or an authorized person shall present to the district director a traveling general declaration and manifest and an abstract general declaration and manifest. The traveling general declaration and manifest shall be one certified copy of the original inward general declaration and of each manifest or list required to be attached thereto at the time of entry (see § 6.7) of the aircraft. The abstract general declaration and manifest[5] shall be one copy of a general declaration and one copy of each manifest[6] forming a part thereof covering all foreign residue cargo not yet cleared by Customs or other interested government agency and manifested or destined for discharge at other domestic or foreign ports. When crew purchases are not itemized on the crew purchase list because reference is made to "Crew declarations and entries attached," such declaration on Customs Form 5129 of crewmembers who have not left the aircraft with their purchases at the port of first entry shall not be retained there but shall be attached to the traveling general declaration and manifest. Any such crew declaration shall be detached at the port where the articles covered thereby receive Customs clearance. When all documents are in order a permit to proceed from one airport to another, which may be stamped, mimeographed, or printed on the abstract general declaration or on a separate sheet of paper attached thereto, shall be dated and signed by the appropriate Customs officer at the airport of clearance. The documents presented by the aircraft commander or authorized person when applying for clearance shall be delivered to the aircraft commander, together with the permit to proceed, for deposit at the next international airport. The permit to proceed and a related declaration of the aircraft commander or an authorized person, to be executed on entry at the next airport, shall be substantially as follows: **[TDs 52054, 53634, 53991, 54482, 54722, 55413, 78-99]**

Permit To Proceed From One Airport to Another

Airport of Departure________________________________

Date____

Permission is hereby given aircraft———to proceed to——— ———————— (Next international airport).

The aircraft, which has arrived from and is destined to the places shown in the general declaration, is proceeding to such places of destination to discharge residue cargo, passengers, or crew members and their purchases, as listed in the attached manifests. Bond was given at the initial international airport for the cargo retained on board. Items of cargo manifested for delivery at this airport appear to have been landed.

Number of crew members not cleared by Public Health for: Quarantine ——; medical examination of aliens ——.

Number of passengers not cleared by Public Health for: Quarantine ——; medical examination of aliens ——.

Number of crew members not cleared by Customs ——.

Number of passengers not cleared by Customs ——.

Number of pieces of cargo not cleared ——.

____

Customs officer (title)

Declaration on Entry of Aircraft at Following Airport

Airport of Arrival________________________________

Date____

I, ————————, commander or authorized representative of the aircraft identified in this document, declare and guarantee that there were not, when such aircraft departed from the airport of ——————————, nor have been since, nor now are, any more or other goods, wares, or merchandise on board than was stated in the manifests attached hereto.

Title____

(c) Upon arrival of the aircraft at the next airport (except when such airport is the last domestic port of discharge), the aircraft commander or an authorized person shall make entry by presenting the abstract general declaration and manifest and the traveling general declaration and manifest, together with the permit to proceed, to the Customs officer after the declaration at the bottom of the permit to proceed has been properly executed. The declarations and entries of crew members (Customs Form 5119) who leave the aircraft at that airport with their purchases shall be detached from the traveling manifest and retained at that port. Upon departure from the second airport of arrival with foreign residue cargo, passengers, or crew members and their purchases not yet cleared by Customs or other interested governmental agency, the procedure shall be the same as at the airport of first arrival, except that no new traveling general declaration and manifest shall be prepared, but the traveling general declaration and manifest as certified at the first international airport shall be delivered to the aircraft commander for deposit at the next airport of entry. **[TDs 53634, 53991, 54722, 78-99.]**

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[4] "* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unlading thereof." (19 U.S.C. 1442.)

Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board." (19 U.S.C. 1443.)

"Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of first arrival together with the certified copy of his manifest." (19 U.S.C. 1444.)

[5] Other copies of abstract manifests may be required by other interested governmental agencies.

[6] Includes air waybills when part of the manifest.

(d) The same procedure as above set forth shall be followed at any subsequent airport (except the last domestic port of discharge) to which the aircraft may proceed with foreign residue cargo, passengers, or crew members and their purchases not yet cleared by Customs or other interested governmental agency. At the last domestic port of discharge no abstract manifest shall be required, and the traveling general declaration with one copy of each cargo manifest forming a part thereof shall be used for entering the aircraft, and shall be retained at such port. **[TDs 53634, 54722.]**

(e) The provisions of this section shall be applicable to aircraft arriving in the United States from either contiguous or noncontiguous foreign territory. Except as specified in this section, the Customs requirements applicable to residue vessel cargo (see § 4.85 of this chapter) shall apply to residue aircraft cargo. **[TDs 52054, 53634.]**

§ 6.10 General provisions.

Except as otherwise provided for in this part, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from any foreign port or place and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels arriving or having arrived from any foreign port or place, to the extent that such laws and regulations are administered by the Customs Service. **[TD's 49949, 53634, 80-287.]**

§ 6.11 Penalties and forfeitures.

Any person violating any Customs requirement prescribed in this part, or any provision of the Customs laws or regulations made applicable to aircraft by § 6.10, shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture, as provided for in the customs laws. As an alternative to seizure and forfeiture of the aircraft, the owner of any aircraft in violation of section 466, Tariff Act of 1930, as amended (see § 6.7(d)), shall be liable for seizure and forfeiture of a monetary amount up to the value of the aircraft in addition to the civil penalty of $500. The penalty and forfeitures may be remitted or mitigated in accordance with the provisions of Part 171 of this chapter. **[TD 79-160.]**

§ 6.12 International airports; regulations.

(a) International airports will be designated after due investigation to establish the fact that a sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose. **[TDs 50658, 52706, 53634.]**

(b) A specific airport will be designated in each case, rather than a general area or district which may include several airports. **[TD 53634.]**

(c) The designation as an international airport may be withdrawn if it is found that the volume of business clearing through the port does not justify maintenance of inspection equipment and personnel, if proper facilities are not provided and maintained by the airport if the rules and regulations of the Federal Government are not complied with, or if it is found that some other location would be more advantageous. **[TD 53634.]**

(d) International airports shall be municipal airports, unless particular conditions which prevail warrant a departure from this requirement. **[TDs 52437, 53634.]**

(e) Each international airport shall provide without cost to the Government suitable office and other space for the exclusive use of Federal officials connected with the port. A suitable surfaced loading area shall be provided by each airport at a convenient location with respect to such office space. Such loading area shall be reserved for the use of aircraft entering or clearing through the airport. **[TD 53634.]**

(f) International airports shall be open to all aircraft for entry and clearance purposes and no charge shall be made for the use of said airports for such purposes. However, in any case where an international airport authorizes any such aircraft to use such airport for the taking on or discharging of passengers or cargo, or as a base for other commercial operations or for private operations, this paragraph shall not be interpreted to mean that charges may not be made for such commercial or private use of such airport. **[TD 53634.]**

(g) All aircraft entering or clearing through an international airport shall receive the required servicing by airport personnel promptly and in the order of arrival of preparation for departure without discrimination. The charges made for such servicing shall in no case exceed the schedule of charges prevailing at the airport in question. A copy of said schedule of charges shall be posted in a conspicuous place at the office space provided for the use of Federal officials connected with the port. **[TD 53634.]**

(h) International airports shall adopt and enforce observance of such requirements for the operation of airports, including airport rules, as may be prescribed or recommended by the Federal Aviation Agency. **[TDs 53634, 54871.]**

(i) Requirements in addition to all the foregoing may be imposed at a particular airport as the needs of the district or area to be served by the airport may demand. **[TD 53634.]**

§ 6.13 List of international airports.[8]

The following is a list of international airports of entry designated by the Secretary of the Treasury without time limit: **[TDs 52081, 52706, 52805, 52808, 52818, 52819, 53076, 53077, 53297, 53406, 53489, 53602, 53634, 53736, 53907, 53945, 54350, 54374, 54448, 54489, 54735, 54871, 54918, 55604, 55677, 55678, 55709, 55745, 55754, 55842, 55348, 55882, 55987, 56142, 56376, 67-63, 72-30, 73-46, 76-260, 78-222.]**

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[8] "(b) The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

"(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary." (49 U.S.C. 1509(b), (c).)

Location	*Name*
Akron, Ohio	Akron Municipal Airport
Albany, N.Y.	Albany County Airport
Baudette, Minn.	Baudette International Airport
Bellingham, Wash.	Bellingham International Airport
Brownsville, Tex.	Brownsville International Airport
Burlington, Vt	Burlington International Airport
Calexico, Calif.	Calexico International Airport
Caribou, Maine	Caribou Municipal Airport
Chicago, Ill.	Midway Airport
Cleveland, Ohio	Cleveland Hopkins International Airport
Cut Bank, Mont.	Cut Bank Airport
Del Rio, Tex.	Del Rio International Airport
Detroit, Mich.	Detroit City Airport
Do	Detroit Metropolitan Wayne County Airport
Douglas Ariz.	Bisbee-Douglas International Airport
Duluth, Minn.	Duluth International Airport
Do	Sky Harbor Airport
Eagle Pass, Tex.	Eagle Pass Municipal Airport
El Paso, Tex.	El Paso International Airport
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport
Friday Harbor, Wash.	Friday Harbor Seaplane Base
Grand Forks, N. Dak.	Grand Forks International Airport
Great Falls, Mont.	Great Falls International Airport
Havre, Mont.	Havre City-County Airport
Houlton, Maine	Houlton International Airport
International Falls Minn.	Falls International Airport
Juneau, Alaska	Juneau Municipal Airport
Do	Juneau Harbor Seaplane Base
Ketchikan, Alaska	Ketchikan Harbor Seaplane Base
Key West, Fla.	Key West International Airport
Laredo, Tex.	Laredo International Airport
Massena, N.Y.	Richards Field
McAllen, Tex.	Miller International Airport
Miami, Fla.	Chalk Seaplane Base
Do	Miami International Airport
Minot, N. Dak.	Minot International Airport
Nogales, Ariz.	Nogales International Airport
Ogdensburg, N.Y.	Ogdensburg Harbor
Do	Ogdensburg International Airport
Oroville, Wash.	Dorothy Scott Airport
Do	Dorothy Scott Seaplane Base
Pembina, N. Dak.	Pembina Municipal Airport
Portal, N. Dak.	Portal Municipal Airport
Port Huron, Mich.	St. Clair County International Airport
Port Townsend, Wash.	Jefferson County International Airport
Ranier, Minn.	Ranier International Seaplane Base
Rochester, N.Y.	Rochester-Monroe County Airport
Rouses Point, N.Y.	Rouses Point Seaplane Base
San Diego, Calif.	San Diego International Airport (Lindbergh Field)
Sandusky, Ohio	Griffing-Sandusky Airport
Sault Ste. Marie, Mich.	Sault Ste. Marie City-County Airport
Seattle, Wash.	King County International Airport
Do	Lake Union Air Service (Seaplanes)
Tampa, Fla.	Tampa International Airport
Tucson, Ariz.	Tucson International Airport
Watertown, N.Y.	Watertown New York International Airport
West Palm Beach, Fla.	Palm Beach International Airport
Williston, N. Dak.	Sloulin Field International Airport
Wrangell, Alaska	Wrangell Seaplane Base
Yuma, Ariz.	Yuma International Airport

§ 6.14 Private aircraft arriving from areas south of the United States.

(a) *Advance report of penetration of United States airspace via United States/Mexican border.* All private aircraft arriving in the United States via the United States/Mexican border from a foreign place in the Western Hemisphere south of 33 degrees north latitude and between 97 degrees and 120 degrees west longitude shall furnish a notice of intended arrival to the Customs Service at the nearest designated airport listed in paragraph (g) of this section for first landing in the United States at least 15 minutes prior to crossing the United States/Mexican border. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(b) *Advance report of penetration of United States airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the United States via the Gulf of Mexico and Atlantic Coasts from a foreign place in the Western Hemisphere south of 31 degrees north latitude shall furnish a notice of intended arrival to the Customs Service at the nearest designated airport listed in paragraph (g) of this section for first landing in the United States. Such notice to Customs may occur anytime while aircraft is within the Gulf of Mexico Coastal or Atlantic Coastal ADIZ (Air Defense Identification Zones), but must occur at least 15 minutes prior to crossing the United States coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(c) *Notice to Customs.* The notice to Customs required by paragraphs (a) and (b) of this section shall include the following:

(1) Aircraft registration number;

(2) Name of aircraft commander;

(3) Number of United States citizen passangers;

(4) Number of alien passengers;

(5) Place of last departure (foreign);

(6) Estimated time and location of crossing United States border/coastline;

(7) Name of intended United States airport of first landing (one of the designated airports listed in paragraph (g) of this section, unless an exemption has been granted in accordance with paragraph (f) of this section); and

(8) Estimated time of arrival.

(d) *Landing requirement.* Private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section shall land for Customs processing at the nearest designated airport to point of crossing as listed in paragraph (g) of this section, unless exempted from this requirement in accordance with paragraph (f) of this section. In addition to the requirements of this paragraph, private aircraft commanders must comply with all other landing and notice of arrival requirements.

(e) *Private aircraft defined.* For the purpose of this section, "private aircraft" means any aircraft other than an aircraft engaged in the transportation of passengers or cargo, or both, for hire.

(f) *Exemption from the landing requirement.* The owner or aircraft commander of a private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section may request an exemption from the landing requirement specified in paragraph (d) of this section. The request shall be submitted to the Customs officer in charge of the airport of first landing at which Customs processing is required and shall be submitted at least 30 days prior to the anticipated first arrival if the request is for an exemption covering a number of flights over a period of 1 year, or at least 15 days prior to the anticipated arrival if the request is for a single flight. The request shall include the following information:

(1) Aircraft registration number;

(2) Identity of aircraft (make and model number);

(3) Names and addresses of owners of the aircraft;

(4) Names and addresses of all crewmembers;

(5) Names of usual or potential passengers to the extent possible;

(6) Name of airport of first landing in the United States; and

(7) Place or places for which the flight(s) will originate.

(g) *Designated airports.*

Location and Name

Beaumont, Tex.—Jefferson County Airport
Brownsville, Tex.—Brownsville International Airport
Calexico, Calif.—Calexico International Airport
Corpus Christi, Tex.—Corpus Christi International Airport
Del Rio, Tex.—Del Rio International Airport
Douglas, Ariz.—Bisbee-Douglas International Airport
Eagle Pass, Tex.—Eagle Pass Airport
El Paso, Tex.—El Paso International Airport
Fort Lauderdale, Fla.—Fort Lauderdale International Airport
Fort Lauderdale, Fla.—Fort Lauderdale Executive Airport and Industrial Airpark
Fort Pierce, Fla.—St. Lucie County International Airport
Houston, Tex.—Hobby Airport
Key West, Fla.—Key West Airport
Laredo, Tex.—Laredo International Airport
McAllen, Tex.—Miller International Airport
Miami, Fla.—Miami International Airport
Miami, Fla.—Opa-Locka Airport
New Orleans, La.—Moissant Airport
Nogales, Ariz.—Nogales International Airport
Presidio, Tex.—Presidio-Lely International Airport
San Diego, Calif.—Brown Field
San Diego, Calif.—San Diego International Airport (Lindbergh Field)
Tampa, Fla.—Tampa International Airport
Tucson, Ariz.—Tucson International Airport
West Palm Beach, Fla.—West Plam Beach Airport
Yuma, Ariz.—Yuma International Airport

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 79 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509)) **[TD 77-24, 82-52, 82-88.]**

§ 6.15 Transportation in bond and merchandise in transit.

(a) *Transportation by aircraft.* The regulations in this section apply only to the transportation in bond of merchandise arriving in United States customs territory by aircraft and entered for immediate transportation without appraisement or for transportation and exportation by aircraft. Except as provided for herein, the regulations[9] applicable to transportation in bond and merchandise in transit shall apply to transportation of merchandise in bond by aircraft. **[TD 53991.]**

(b) *Procedure at port of origin.* (1) Customs Form 7512 shall be used as a combined entry and manifest. These forms shall be filed in quintuple and all copies shall be signed by the agent of the carrier.

(2) When merchandise is entered for immediate transportation without appraisement, two copies of the combined entry and manifest shall be delivered to the carrier to accompany the merchandise to the port of destination. When merchandise is entered for transportation and exportation, one copy of the combined entry and manifest shall be delivered to the carrier to accompany the merchandise to the port of destination.

(3) All such merchandise delivered to a bonded air carrier for transportation in bond shall be receipted for by an agent of the carrier and no supervision of the lading of the merchandise on the transporting aircraft shall be required.

(4) Merchandise covered by a single combined entry and manifest may be forwarded to destination on one aircraft or on more than one aircraft, and a separate manifest for each aircraft shall not be required if the entire shipment is forwarded within a single 24-hour period. When a portion of a shipment is forwarded on an aircraft departing more than 24 hours after the first portion of the shipment was forwarded, the original combined entry and manifest copy or copies accompanying the first portion of the shipment shall be endorsed to indicate that the remainder of the shipment will follow by separate aircraft, and a single manifest shall be prepared for each portion of the shipment which follows by separate aircraft and used as a notice of arrival at the port of destination.

(5) Merchandise forwarded in bond under the regulations in this part may be transshipped at an intermediate port to one or more aircraft of the same line without Customs supervision and notice of such transshipment shall not be required. When merchandise covered by a single combined entry and manifest is transshipped to more than one aircraft the procedure specified in subparagraph (4) of this paragraph, shall be followed.

(6) The sealing of aircraft or compartments of aircraft carrying in-bond merchandise, or the cording and sealing of in-bond packages carried by aircraft, shall not be required. However, the carrier shall furnish and attach to each in-bond package the warning label prescribed by § 18.4(e) of this chapter.

(c) *Procedure at the port of destination.* On arrival of an in-bond shipment at the port of destination, the aircraft commander, or an authorized person, shall deliver one copy of the combined entry and manifest which accompanied the shipment, or the copy of the manifest prepared for each portion of a shipment forwarded by separate aircraft which departed more than 24 hours after the first portion of the shipment, to the district director at that port as a notice of arrival. One copy of the entry and manifest which accompanied merchandise forwarded under an entry for immediate transportation without appraisement shall be delivered by the carrier to the consignee to be used in making entry. This copy may be endorsed as provided for by § 141.11(a)(4) of this chapter and used as a carrier's certificate. **[TD 73–175.]**

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[9] See Part 18 of this chapter.

§ 6.16 Certificate of lading for exportation.

The certificate of lading for exportation on customs Form 7512 or customs Form 7520 shall be executed at the place where the aircraft clearance covering such merchandise is obtained. In any case where the aircraft clearance is obtained at a place other than the place of last take-off from United States customs territory, as provided for by § 6.5(c), the aircraft commander or an authorized person shall at each place of subsequent landing in United States customs territory prior to foreign departure (a) immediately report arrival with merchandise on board destined to be exported from bond to the customs officer at that place and (b) surrender the clearance certificate received at the place where such merchandise was taken on board to the Customs officer to be retained until departure.[10] **[TD 53991.]**

§ 6.17 Alternate transportation procedures for air cargo subject to Customs control.

Cargo (including manifested baggage) arriving by aircraft and to be transported subject to Customs control in, through, or from the United States by aircraft must, if not transported in accordance with other provisions of the regulations of this part, be transported in bond in accordance with the applicable provisions of §§ 6.18 through 6.24. Such cargo so transported shall be referred to as "transit air cargo." For the purposes of these sections, the term "port of arrival" means the port in the United on board to the Customs officer to be retained until departure.[10] **[TD 53991.]**

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[10] "If any merchandise entered or withdrawn for exportation without payment of duties thereon, * * * is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported in the United States contrary to law, and each person concerned shall be fined not more than $5,000 or imprisoned not more than 2 years, or both; and such merchandise shall be forfeited." (18 U.S.C. 544.)

States at which the imported cargo must be documented for onward air transportation otherwise than as residue cargo, and the terms "transfer" or "transferred" mean the change to documentation of cargo as transit air cargo for transportation from the port of arrival; this may or may not involve a change of aircraft or airlines but when it does, such terms shall also include the physical movement of the cargo from one to another aircraft. (Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553) **[TD 55561.]**

§ 6.18 Documentation for transit air cargo.

(a) The Air Cargo Manifest, Customs form 7509, printed, stamped, or labeled "Transportation Entry and Transit Air Cargo Manifest", shall be used as the transportation entry and the manifest for transit air cargo. The cargo manifest sheet in the inward cargo manifest of the importing aircraft and each copy of that sheet required for a transit air cargo movement shall be printed, stamped, or labeled "Transportation Entry and Transit Air Cargo Manifest". Each transportation entry and transit air cargo manifest sheet ("transit air cargo manifest sheet") shall be a duplicate, insofar as identification of the cargo and other data are concerned, of the corresponding manifest sheet in the inward cargo manifest presented for the aircraft on which the cargo arrives in the United States. **[TDs 55561, 73-1, 79-73.]**

(b) Only air cargo shipments from one country of exportation, the name of which must be shown in the heading, may be listed on any one transit air cargo manifest sheet, or in lieu of such limitation the name of the country of exportation of each shipment must be shown in the "Nature of Goods" column. In addition thereto, only such shipments which are manifested by way of the port of arrival (1) to the same United States Customs port of destination, or (2) to the same United States Customs port for exportation therefrom, or (3) for direct exportation from the port of arrival may be listed on one transit air cargo manifest sheet.

(c) If manifest sheets are not prepared in accordance with paragraph (b) of this section, each cargo shipment manifested thereon, when required to be transported subject to Customs control, must be transported beyond the port of arrival in accordance with other provisions of these regulations requiring individual documentation for the inward transportation or exportation of each shipment (see § 5 and Parts 18 and 123 of this chapter).

(d) When presented, each transit air cargo manifest sheet must show also (1) the foreign port of lading, (2) the date of arrival of the aircraft at the port of arrival, (3) the final country of destination of each shipment, or final port of destination in the United States of each shipment so destined, and (4) each United States port at which a Customs function will be necessary by reason of these transit air cargo procedures. The destination outside the United States must be shown as the actual, ultimate country of destination indicated by available airline shipping documents even though the air transportation may be scheduled to terminate in a country prior to such ultimate destination.

(e) All transit air cargo other than that exported directly from the port of arrival must have affixed thereto before departure from the port of arrival the red warning label prescribed by § 18.4(e) of this chapter.

(f) The transportation entry and transit aircargo manifest must be furnished in the number of copies indicated below for the respective transportation movement: **[TD 73-1.]**

(1) Three copies are required for transit air cargo destined for export directly from the port of arrival;

(2) Four copies are required for transit air cargo moving to a port of destination in the United States from the port of arrival;

(3) Seven copies are required for transit air cargo moving from the port of arrival to another United States port for exportation therefrom. (Secs. 552, 553, 46 Stat. 742, 19 U.S.C. 1552, 1553)

§ 6.19 Identification of transit air cargo manifest sheets.

Upon presentation of the inward cargo manifest of the aircraft on which the cargo arrives at the port of arrival, a manifest number must be assigned by Customs to the aircraft entry documents presented by the aircraft commander or authorized agent. That number must be used by the importing airline to identify all copies of transit air cargo manifests. The number must be given as a prefix an identification of the airport of arrival with the use of the 3-letter city or airport designator (the Air Traffic Service Location Identifier, as referred to by the Federal Aviation Agency); for example, "Idl-3758," or "Bos-296" as the case may be. **[TD 55561.]**

§ 6.20 Conditions for transportation of transit air cargo.

(a) As a condition for Customs release for transportation of air cargo beyond the port of arrival as transit air cargo all required copies of a transit air cargo manifest sheet must be identified as prescribed in § 6.19 prior to presentation to Customs. **[TD 55561.]**

(b) To proceed from the port of arrival as transit air cargo, air cargo must be receipted for in the manner prescribed in paragraph (d) of this section, within the lay order period or any authorized extension (see § 4.37 of this chapter), by the airline which will be responsible for transporting or exporting such cargo.

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier for the transportation of bonded merchandise having on file an appropriate Customs bond for such transportation. Transit air cargo may be exported from the port of arrival only when covered by an exportation bond on Customs Form 7557 or 7559 as specified in section 18.25 of this chapter, or other appropriate bond. The importing airline, whether registered in the United States or a foreign country, if it has been designated a carrier of bonded merchandise as set forth above, may receipt for the air cargo, obligate its appropriate bond, and deliver the air cargo to an authorized domestic carrier for inbond transportation beyond the port of arrival under th importing airline's bond which covers that movement. The responsibility of the receiving airline for transit air cargo otherwise than for direct exportation from the port of arrival begins when a receipt executed as prescribed in paragraph (d) of this section is presented to Customs. If any carting for delivery to a receiving airline is necessary prior to such time, the importing airline remains solely responsible for such cargo under its bond unless such carting is performed under the provisions of Part 21 of this chapter and at the expense of the parties in interest. **[TD 73-1.]**

(d) Each copy of the transportation entry and transit aircargo manifest must bear the following statement legibly signed and dated, if required, when presented to Customs: **[TD 73-1.]**

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

____

Name of Carrier (or Exporter)

____

Attorney or Agent of Carrier (or Exporter)

____

Date

(e) All cargo shipments listed on a transit air cargo manifest sheet must be receipted for by one airline and must be transported from the port of arrival on one aircraft except where the use of more than one aircraft would be permitted by § 6.15(b)(4) in the case of a single combined entry and manifest on Customs Form 7512, or where the use of more than one aircraft is permitted as specified in § 6.24(f). Otherwise, all shipments on the transit air cargo manifest must be individually documented and transported under the regular procedures for transportation of merchandise in bond. (Secs. 552, 553, 46 Stat. 742, 72 Stat. 799; 19 U.S.C. 1552, 1553)

§ 6.21 Timely delivery and exportation.

(a) Transit air cargo destined to a final port of destination in the United States must be delivered to Customs at destination within 15 days from the date of receipt by the forwarding airline at the port of arrival. **[TD 55561.]**

(b) Transit air cargo destined for exportation at a port other than the port of arrival must be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline at the port of arrival. If all of the cargo shipments are not exported within the succeeding 15-day periods, the individual cargo shipments must be made the subject of individual entries, as appropriate, at the port of exportation.

(c) In the case of transit air cargo to be exported from the port of arrival, exportation as transit air cargo must be required within 10 days from the date of receipt of the cargo by the exporting airline. After such 10-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

§ 6.22 Transportation of transit air cargo to an interior port of destination.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, under such Customs supervision as the district director deems necessary, to another port in the United States with the use of the following number of copies of transit air cargo manifest sheets: **[TD 55561.]**

(1) A "carrier manifest" copy to accompany the cargo shipments listed thereon and be delivered to Customs at destination;

(2) Three copies for presentation to Customs at the port of arrival at the time of entry of the arriving aircraft or at a subsequent time before expiration of the lay order period. One copy will be used as a "permit" copy by Customs at the port of arrival, one "mail manifest" copy will be mailed by Customs to the port of destination, and one "control" copy will be mailed to the headquarters port for the port of destination. These copies must be presented by or on behalf of the carrier receipting for the transportation of the cargo shipments to destination.

(b) At the port of destination Customs must use the carrier manifest copy for control by noting thereon the disposition of each cargo shipment listed.

(c) Transit air cargo is to be delivered to Customs at destination within 15 days of the date of receipt for it by the forwarding carrier at the port of arrival. When all or part of the cargo covered by the mail manifest copy received at destination from Customs at the port of arrival is not closed out after 30 days from its receipt by a posted carrier manifest copy, the district director must inquire of the receipting carrier as to the whereabouts of the shipment or shipments not accounted for. He must in each case of failure to deliver or irregular delivery of all or part of the transit air cargo make a report to the port of arrival. The report must be made no later than 40 days from the date of receipt of the mail manifest copy. The report must be made to, and action promptly taken thereon by, Customs at the port of arrival in the manner specified in §§ 18.6 and 18.8 of this chapter, except that the report on Customs Form 3861 must not indicate the amount of duty or tax due when the amount is in doubt. In such case, Customs at the port of arrival must make the determination of tax and duty due on information in the report, in the permit copy retained there, and any necessary information obtained from the carriers.

(d) Upon receipt of a written notice of failure to deliver, the airline which receipted for the transit cargo must be responsible for furnishing within 90 days to the district director any data or documents available to it or to the importing airline concerning the description and value of the cargo shipments in question.

(e) Penalties imposed as liquidated damages under the common carrier's bond for shortage, failure to deliver, etc., must be the same as prescribed in § 18.8 of this chapter. The penalty set forth in § 18.8 for failure to deliver merchandise shall apply to the failure to deliver merchandise within the time period set forth in paragraph (c) of this section. Under that section the basis for the assessment of liquidated damages is the value of the merchandise. The transit air cargo manifest does not reflect value. Therefore, when it is necessary to determine the value of merchandise shipped as transit air cargo, the value must be determined by the district director on the basis of the data or documents specified in paragraph (d) of this section and such other information available to him relating to merchandise of the same or similar description or origin. However, when the data or documents required to be furnished by paragraph (d) of this section are not received within the 90-day period prescribed, the district director will make his determination of value on the basis of such other information available to him. **[82-14.]**

§ 6.23 Transportation of transit air cargo to another port for exportation.

(a) Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival, under such Customs supervision as the district director deems necessary, to another port for exportation therefrom with the use of the following number of copies of transit air cargo manifest sheets: **[TD 55561.]**

(1) A "carrier manifest" copy to accompany the cargo shipments listed thereon and be delivered to Customs upon arrival of the shipments at the port of exportation;

(2) A copy which is stamped, labeled, or printed "diversion copy" in outline letters at least 1 inch in height to be attached to and accompany the carrier manifest copy and be delivered to Customs at the port of exportation;

(3) Three copies, called "permit", "mail manifest", and "control" copy, for presentation to Customs at the port of arrival either at the time of entry of the arriving aircraft or at a subsequent time before expiration of the lay order period. These copies must be presented by or on behalf of the airline receipting for the transportation of the cargo shipments from the port of arrival to the port of exportation for lading for export at such place;

(4) Two copies, called "Exportation" and "Clearance" copies, to be presented by the exporting airline to Customs at the port of exportation in connection with the exportation.

(b) Upon arrival of the transit air cargo shipments at the port of exportation, the transit air cargo may be delivered direct to the exporting carrier with the exportation and clearance copies after the name of such carrier is legibly noted on the carrier manifest and diversion copies and such copies are delivered to Customs.

(c) The exporting carrier will retain all cargo listed on a transit air cargo manifest in one place which must be separate from the specially designated area for storage of shipments coming within the provisions of paragraph (e) of this section. When the goods are ready for lading on the exporting aircraft, Customs will be notified sufficiently in advance so as to be able to make any required supervision of the lading of the cargo and any further checks for Federal Government purposes.

(d) When presented to Customs, the exportation and clearance copies must each show the exporting aircraft's number and flight number and date. The exporting airline must file these documents (including the clearance copies of transit air cargo manifests) for the departing aircraft. The clearance copies of air transit cargo manifests shall be grouped together in the outward manifest separately and not intermingled with other outward manifest pages. The exportation copies shall be grouped together separately from the outward clearance documents.

(e) The customs officer receiving the carrier manifest and diversion copies of the transit air cargo manifest must review them for export licensing requirements of the Secretary of State covering arms, ammunitions, and implements of war, and of the Bureau of International Programs, Department of Commerce. A shipment for which the manifest information is not adequate to enable the officer to determine that no licensing or other requirements are applicable to the particular transit air cargo must be checked either by examination or by inspecting the air waybill or accompanying invoice. In this case, in order not to delay the onward movement of other goods, this shipment may be struck from the transit air cargo manifest and the remaining shipments may proceed. If a licensing or other requirement is found applicable, the exporting airline must be immediately notified that the particular shipment cannot be exported until an appropriate license or approval is obtained. This shipment must be placed under constructive Customs custody in a specially designated area of the exporting airline's cargo terminal for such shipments until the necessary Customs or other approval for shipment is obtained.

(f) The diversion copy of each transit air cargo manifest sheet must be sent by the port of diversion, with an endorsement of exportation showing the port, date, and exporting carrier, to the port of indicated exportation when all cargo shipments listed thereon have been exported at the port of diversion. It shall normally be sent as soon as the exportation copy or copies are presented at the port of exportation and are attached to the carrier manifest, and it is verified that all shipments listed thereon are exported. If exceptions are found by Customs at the port of exportation, they must be noted on the diversion copy before it is sent. However, if the carrier's manifest copy is not fully closed out at the port of diversion within 30 days from the date of the carrier's receipt on the carrier manifest and diversion copies, the diversion copy must be immediately sent to the port of indicated exportation. The diversion copy must be noted before to forestall a report to the port of arrival (see paragraph (g) of this section), sending, "Exportation copy not yet received—further report will follow if necessary."

(g) When the mail manifest copy is received, Customs will file it according to identification number (see § 6.19); that is, numerically by port of arrival. When all or part of the cargo covered by a mail manifest copy is not closed out by an exportation copy, or a diversion copy endorsed by Customs at another port, within 40 days from the date of receipt of the mail manifest copy, the district director must, without making inquiry of any carrier, make an appropriate report to the port of arrival and this report must be processed and action taken in accordance with § 6.22(c), (d), and (e) of these regulations. **[TD 56032.]**

(h) If all of the cargo listed on one transit air cargo manifest sheet is not laden for exportation from the same port in the United States by the same airline, individual entries on Customs Form 7512 for transportation and exportation in accordance with § 6.15 or for direct exportation in accordance with § 18.25 of this chapter must be required for each cargo shipment listed on such transit air cargo manifest sheet. Until all cargo shipments covered by one transit air cargo manifest are received at a port for exportation, none may be exported except under individual entries. If it is necessary to export on more than one aircraft of the same airline the cargo shipments listed on one transit air cargo manifest sheet, the procedure in § 6.24(f) shall be applicable. When individual entries are required or the cargo is exported at the same port on more than one aircraft, the carrier manifest copy will be posted and used by Customs as in the case of the carrier manifest for cargo destined to a port of destination in the United States (see § 6.22(b)).

§ 6.24 Exportation of transit air cargo at port of arrival.

(a) Transit air cargo may be transferred for exportation at the port of arrival in the United States with the use of three copies of the transit air cargo manifest; a "review" copy, an "exportation" copy, and a "clearance" copy. **[TD 55561.]**

(b) At the port of arrival, transit air cargo may be transferred for exportation immediately: *Provided,* (1) That, as soon as it is known to which airline cargo shipments will be transferred for exportation, the importing airline files with Customs a copy of each transit air cargo manifest sheet covering such cargo shipments, which copy need not be receipted by the airline to which the cargo will be transferred, but the name of the exporting airline must be inserted on such review copy by the importing airline; and (2) that the transfer is subject to supervision, examination of cargo, manifest review, etc., as may be required for compliance with regulations of other Federal agencies.

(c) The exportation copy and the clearance copy must be filed with Customs by or on behalf of the exporting airline which receipts for the shipments. The clearance copy must be presented with and retained in the departing aircraft's clearance documents. The exportation copy must be presented at the time the clearance documents are presented to Customs. Both copies must, in addition to bearing the receipt of the exporting airline, show the exporting aircraft's number, flight number, and date.

(d) Upon receipt of the review copy of the transit air cargo manifest sheets, Customs must make the review prescribed in the case of the carrier manifest copy in § 6.23(e). The reviewing officer must take appropriate action if a license is found to be applicable for any cargo. The exporting airline will be notified to place under constructive Customs custody any transit air cargo shipment subject to special license. The exporting airline must then place any transit air cargo shipment subject to special license in a specially designated area of its cargo terminal until the necessary license is obtained.

(e) When exportation copies are filed, Customs must use them to close out the transit air cargo manifest sheets in the inward manifest of the aircraft on which the transit air cargo arrived at the port.

(f) If all transit air cargo shipments listed on any one transit air cargo manifest sheet are not exported directly on the same aircraft, an additional exportation and clearance copy must be required for each shipment or group of shipments listed thereon departing on any other aircraft of the exporting airline. In this event, each copy of the transit air cargo manifest sheet must be clearly marked to show which shipment or shipments listed thereon are covered thereby.

(g) Separate export entries on customs Form 7512 in accordance with § 18.25 of this chapter must be required for all shipments listed on any one transit air cargo manifest sheet if not all such shipments are exported from the same port by the same aircarrier. When separate export entries are required, the copy of the transit air cargo manifest sheet in the inward manifest of the importing aircarrier must be posted as in the case of the carrier manifest for cargo destined to a port of destination in the United States (see § 6.22(b)).

§ 6.25 Flights to and from the Virgin Islands; provisions applicable.

(a) *Flights between the Virgin Islands and a place other than a State, the District of Columbia, or Puerto Rico.* Aircraft arriving in the Virgin Islands from a place other than a State, the District of Columbia, or Puerto Rico are subject to the provisions of this part which are applicable to aircraft arriving in a State from a place other than a State, the District of Columbia, or Puerto Rico are subject to the provisions of this part which are applicable to aircraft departing from a State for a place other than a State, the District of Columbia, or Puerto Rico. **[TD 75-86.]**

(b) *Flights from a State, the District of Columbia, or Puerto Rico to the Virgin Islands.* Aircraft on flights from a State, the District of Columbia, or Puerto Rico to the Virgin Islands are subject to the provisions of this part which are applicable to aircraft on a flight between two States except that aircraft transporting merchandise to the Virgin Islands subject to Bureau of the Census regulations requiring shipper's export declarations (15 CFR Part 30) must obtain permission to depart from the district director of Customs. Permission to depart shall not be granted until a complete manifest and required shipper's export declarations are filed unless the aircraft departs under bond pursuant to the incomplete manifest procedure (15 CFR 30.24) which requires the filing of a complete manifest and shipper's export declarations not later than the seventh business day after departure.

(c) *Flights from the Virgin Islands to a State, the District of Columbia, or Puerto Rico.* (1) Aircraft which are not inspected by Customs officers in the Virgin Islands are subject upon departure from the Virgin Islands for a State, the District of Columbia, or Puerto Rico to the provisions of this part which are applicable to aircraft departing from a State for a place outside the United States.

(2) Upon arrival in a State, the District of Columbia, or Puerto Rico from the Virgin Islands, aircraft which were not inspected by Customs officers in the Virgin Islands are subject to the provisions of this part which are applicable to aircraft arriving in a State from a place outside the United States.

(3) Aircraft on a flight from the Virgin Islands to a State, the District of Columbia, or Puerto Rico which were inspected by Customs officers in the Virgin Islands are subject upon departure from the Virgin Islands and upon arrival in the State, the District of Columbia, or Puerto Rico only to the provisions of this part which are applicable respectively to aircraft departing for or arriving in a State from another State.

(4) For the purpose of this section, the term "inspected by Customs officers in the Virgin Islands" means whatever supervision of the aircraft is deemed necessary by the district director of Customs to protect the revenue and enforce the laws administered by the United States Customs Service, including the collection of duty and taxes on articles purchased in the Virgin Islands.

(5) In the case of aircraft arriving in a State, the District of Columbia, or Puerto Rico from the Virgin Islands which

were inspected there by Customs officers, the aircraft commander shall be prepared to present evidence of such inspection to Customs officers upon request. The evidence of inspection in the Virgin Islands shall be as follows:

(i) For aircraft registered in the United States of domestic origin or of foreign origin if duty paid and proceeding in ballast or solely with cargo or passengers or both from the Virgin Islands, a certificate on Customs Form 7507, General Declaration, endorsed by the Customs officers who inspected the aircraft in the Virgin Islands. The commander shall present the certificate in duplicate to the inspecting officers in the Virgin Islands, who will endorse the port of inspection thereon, date and sign the certificate and return the original to the commander. The commander or his representative shall retain the certificate for a reasonable time after termination of the flight to a State, the District of Columbia, or Puerto Rico, for presentation to Customs officers upon request, and then it may be destroyed or otherwise disposed of at the discretion of the commander or his representative.

(ii) For aircraft registered in the United States but of foreign origin and not duty paid and proceeding in ballast, the permit to proceed on Customs Form 7507, required by § 6.2(d)(3)(ii), endorsed with the port and date of inspection by the inspecting officers in the Virgin Islands. For aircraft registered in a foreign country and proceeding in ballast, the permit to proceed on Customs Form 7507, required by § 6.2(d)(1), endorsed with the port and date of inspection by the inspecting officers in the Virgin Islands.

(iii) For aircraft proceeding with residue cargo or residue passengers or both, the permit to proceed required by § 6.9 or any other Customs form used to cover the transportation of the residue cargo or passengers, endorsed with the port and date of inspection and signed by the inspecting officers in the Virgin Islands.(Sec. 36, 49 Stat. 1816 (48 U.S.C. 1460i))

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION [1]

Sec.

7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.
7.8 Insular possessions of the United States other than Puerto Rico.
7.11 Guantanamo Bay Naval Station.

Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14636, Dec. 31, 1963, unless otherwise noted.

§ 7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.

(a) When spirits and wines are withdrawn from a bonded manufacturing warehouse for shipment in bond to Puerto Rico pursuant to section 311, Tariff Act of 1930, as amended,[2] the warehouse withdrawal shall contain on the face thereof a statement of the kind and quantity of all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines. The duty assessed on the imported merchandise and containers so used, and their classification and value, shall be shown on the withdrawal in accordance with § 144.41 of this chapter. If no imported merchandise or containers have been used, the warehouse withdrawal shall bear an endorsement to that effect. (See § 22.26 of this chapter.) **[TDs 48461, 50501, 73-175.]**

(b) The spirits and wines shall be forwarded in accordance with the general provisions of the regulations governing the transportation of merchandise in bond, Part 18 of this chapter. **[TD 48461.]**

(c) A regular entry shall be made for all foreign-grown coffee shipped to Puerto Rico from the United States, but special Customs invoices shall not be required for such shipments.[3] **[TD 54056.]**

§ 7.8 Insular possessions of the United States other than Puerto Rico.

(a) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States,[4] relating to certain articles produced in such insular possessions, there shall be filed in connection with the entry a certificate of origin covering articles shipped from insular possessions (except Puerto Rico) to the United States, Customs Form 3229, signed by the chief or assistant chief customs officer at the port of shipment,[5] showing that such merchandise is the growth or product of such possession, or manufactured or produced in such possession, from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 per centum of their total value. Such certificate shall not be required for any shipment valued at $25 or less. **[TA 1930, Sec. 401, TDs 22742, 23223, 23367, 23540, 23759, 33898, 41839, 49658, 52252, 53336, 53617, 55978, 73-220.]**

(b) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States relating to certain articles returned to the United States, there shall be filed in connection with the entry the following evidence: **[TD 55978.]**

(1) A certificate, Customs Form 3311, of the district director at the port from which the merchandise was shipped from the United States, except that no such certificate shall be required if the district director is satisfied by reason of the nature of the articles or otherwise that no drawback of duties or refund or remission of taxes was allowed on the merchandise by reason of such shipment. This certificate shall be issued on application of the im-

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[1] "All laws affecting imports of articles, goods, wares, and merchandise from foreign countries shall apply to articles, goods, wares, and merchandise and persons coming from the Canal Zone, Isthmus of Panama, and seeking entry into any State or Territory of the United States or the District of Columbia." (33 Stat. 843; 19 U.S.C. 126)

The customs administration of the said Canal Zone is under the jurisdiction of the Governor of the Panama Canal. (T.D.'s 26163, 28815, 30254, 30448, 39402, C. D. 530)

For the treaty between the United States and the Republic of Panama see 33 Stat. 2234.

[2] "* * * Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

[3] Section 319, Tariff Act of 1930, authorizes the Legislature of Puerto Rico to impose a duty on coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States, and the Legislature of Puerto Rico has imposed such a duty. (Secs. 311, 319, 484(a), 46 Stat. 691, as amended, 696, 722, as amended; 19 U.S.C. 1311, 1319, 1484(a))

[4] "(i) Articles imported from insular possessions of the United States which are outside the customs territory of the United States are subject to the rates of duty set forth in column numbered 1 of the schedules, except that all articles the growth or product of any such possession, or manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value, coming to the customs territory of the United States directly from any such possession, and all articles previously imported into the customs territory of the United States directly from any such possession, and all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation which were shipped from the United States, without remission, refund, or drawback of such duties or taxes, directly to the possession from which they are being returned by direct shipment, are exempt from duty.

"(ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent, no material shall be considered foreign which, at the time such article is entered, may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty." (General Headnote 3(a), Tariff Schedules of the United States.)

[5] Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and American Samoa are American territory, but not within the Customs territory of the United States. Importations into those islands are not governed by the Tariff Act of 1930 or these Customs Regulations. The Customs administration of American Samoa is under the jurisdiction of the Department of the Interior (Office of Territories). The Customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The Customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. The Customs administration of Guam is under the Government of Guam. A certificate signed by the Commander at the Johnston Island Air Force Base, or his assistant, shall be acceptable as proof of origin. Kingman Reef is understood to be uninhabited.

porter, or of the district director at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise was shipped from the port at which entry is made and the fact of shipment appears on the records of the custom house, the fact of return shall be noted on such record but the filing of the certificate on Form 3311 shall not be required. **[TD 78-99.]**

(2) A declaration of the shipper in the insular possession in the following form:

I, ———————— of ———————— do hereby declare that to the best of my knowledge and belief the articles identified below were sent directly from the United State on ————, 19——, to ——————————, of ——————————, on (Insular possession) the ——————————, and that the (Name of carrier) articles remained in said insular possession until shipped by me directly to the United States via the ———— —————————— (Name of carrier) on —————————— ——, 19 ——. **[TD 72-213.]**

Marks	Numbers	Quantity	Description	Value

Dated at ————————, this ——— day of ————————, 19—.

(Shipper)

Such certificate and declaration shall not be required for shipments valued at $25 or less, or in any case where the district director is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned therefrom by direct shipment, and that no drawback of duties or refund or remission of taxes was allowed when the articles were shipped from the United States.

(c) When merchandise, excluding any shipments valued at $25 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond for the production thereof may be taken on Customs Forms 7551, 7553, or other appropriate form, except that a bond for production of a bill of lading shall be taken on Customs Form 7581.

(d) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 per centum, a comparison shall be made between the actual purchase price of the foreign materials (excluding any material which at the time such article is entered, or withdrawn from warehouse, for consumption in the United States, may be imported into the United States from a foreign country, other than Cuba or the Philippine Republic, free of duty), plus the cost of transportation to such insular possession (but excluding duties and taxes, if any, assessed by the insular possession and any charges which may accrue after landing), and the final appraised value in the United States determined in accordance with section 402, Tariff Act of 1930, as amended, of the article brought into the United States.

(e) A special Customs invoice shall be required in connection with each shipment of dutiable merchandise valued over $500 unless the shipment would have been exempt from the requirement of a special Customs invoice under § 141.83 of this chapter if it had been imported from a foreign country, or when the shipment is covered by a certificate of origin provided for in paragraph (a) of this section. **[TA 1930, sec. 482 (f); TDs 53336, 53869, 73-175.]**

(f) Merchandise may be withdrawn from bonded warehouse under section 557, Tariff Act of 1930, as amended, for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the Island of Guam, without payment of duty, or with refund of duty if the duties have been paid thereon, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313, Tariff Act of 1930, as amended, on articles manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under section 313 of the Tariff Act on articles manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands, Kingman Reef, or Johnston Island. (See § 22.22 of this chapter.) (Secs. 309, 313, 482(f), 557, 46 Stat. 690, as amended, 693, as amended, 720, as amended, 744, as amended, 77A Stat. 11; 19 U.S.C. 1202 (Gen. Hdnte. 3(a)), 1309, 1313, 1482(f), 1557.) **[TD 50501, 53933, 73-220.]**

§ 7.11 Guantanamo Bay Naval Station.

Articles of foreign origin may enter the area (both land and water) of the Guantanamo Bay Naval Station free of duty, but such articles shall be subject to duty upon their subsequent entry into the United States. **[TD 43302.]**

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE—Deleted.

[TD73-175]

PART 9—IMPORTATIONS BY MAIL—redesignated as Part 145; [TD73-135]

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Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11, Tariff Schedules of the United States), 1624. Secs. 10.11 through 10.24 also issued under sec. 502, 46 Stat. 731, as amended, 77A Stat. 14; 19 U.S.C. 1202 (General Headnote 12, Tariff Schedules of the United States), 1502. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: 28 FR 14663, Dec. 31, 1963, unless otherwise noted. Sections 10.151 through 10.153 and § § 10.161 through 10.166 appear at 38 FR 17445, July 2, 1973, unless otherwise noted.

Articles Exported and Returned

§ 10.1 Domestic products; requirements on entry.

(a) Except as otherwise provided for in this part, the following documents shall be filed in connection with the entry of articles claimed to be free of duty under item 800.00 and item 805.00, Tariff Schedules of the United States: **[CIE 586/41. TDs 34553, 36655, 51222, 52127, 53611, 54995, 55978, 72-119.]**

(1) A declaration by foreign shipper in substantially the following form, if the value of the returned articles exceeds $1,000: **[TDs 45888 (9), 49959 (4), 51519, 53336, 53638, 53869, 54056, 54462, 72-119.]**

I, ———————————, declare that to the best of my knowledge and belief the articles herein specified are products of the United States; that they were exported from the United States, from the port of ——————— on or about ———————, 19——; that they are returned without having been advanced in value or improved in condition by any process of manufacture or other means.

Marks	*Number*	*Quantity*	*Description*	*Value, in U.S. coin*

(Date)

(Address)

(Signature)

(Capacity)

(2) A declaration for free entry by the owner, importer, consignee, or agent on the top portion of Customs Form 3311. **[TDs 39663, 49703 (1), 53268, 72-119.]**

(3) A Certificate of Exportation on the bottom portion of Customs Form 3311 executed by the district director at the port from which the merchandise was exported. Such certificate shall show whether drawback was claimed or paid on the merchandise covered by the certificate and, if any was paid, the amount thereof. This certificate shall be issued on application of the importer, or of the district director at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise has been exported from the port at which entry is made and the fact of exportation appears on the records of the customhouse, the fact of reimportation shall be noted on such export record. In such case the filing of the certificate on Customs Form 3311 shall not be required. **[TDs 37983, 38226, 45588 (1), 53336, 72-119.]**

(b) If, in any case where the appraising officer's report does not show definitely that merchandise the value of which exceeds $1,000 is of domestic origin, Customs Form 3311 has not been executed by the owner or ultimate consignee, the district director may require the execution of such form by the owner or ultimate consignee. In such a case Customs Form 3311 shall be filed within 3 months after the date of the demand therefor upon the person in whose name the entry was filed. If the owner or ultimate consignee is a corporation, such form may be signed by the president, vice president, secretary, or treasurer of the corporation, or may be signed by any employee or agent of the corporation who holds a power of attorney executed under the conditions outlined in Subpart C, Part 141 of this chapter and a certification by the corporation that such employee or other agent has or will have knowledge of the pertinent facts. In the case of articles which are unquestionably the products of the United States and which have not been advanced in value or improved in condition, if the district director is satisfied from the character thereof or otherwise that they are free of duty under Schedule 8, Part 1, Tariff Schedules of the United States, and if the total value of the articles of American origin contained in the shipment does not exceed $250, the execution of Customs Form 3311 shall not be required therefor, except when used as an entry under paragraph (g), (h), or (i) of this section. **[TDs 32388, 51008, 53268, 53336, 53527, 53638, 54462, 55978, 72-119, 78-99.]**

(c) A certificate from the master of a vessel stating that products of the United States are returned without having been unladen from the exporting vessel may be accepted in lieu of the declaration of the foreign shipper required by paragraph (a)(1) of this section. **[TDs 37009, 49658, 53336, 55978, 72-119.]**

(d) If the district director is reasonably satisfied, because of the nature of the articles, or production of other evidence, that the articles are imported in circumstances meeting the requirements of item 800.00 or 805.00, Tariff Schedules of the United States, and the related headnotes, he may waive the requirements for producing the documents specified in paragraphs (a) and (b) of this section except when Customs form 3311 is used as an entry summary (as defined in section 141.0a(b) of this chapter) under paragraphs (g) or (h), or as an informal entry under paragraph (i). **[TDs 52157, 55978, 72-119, 79-221.]**

(e) No evidence relative to the conditions of item 800.00 shall be required in the case of articles the product of the United States in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty unless such articles would be dutiable if not products of the United States under General Headnote 6, Tariff Schedules of the United States. **[TDs 53557, 54056, 54462, 55978, 72-119.]**

(f) In the case of photographic films and dry plates manufactured in the United States (except motion picture films to be used for commercial purposes) exposed abroad and entered under item 805.00, the requirements of paragraphs (a), (b), and (c) of this section are applicable except that the declaration on Customs Form 3311 to the effect that the articles "are returned without having been advanced in value or improved in condition by any process of manufacture or other means" shall be crossed out, and the entrant shall show on the form that the subject articles when exported were of U.S. manufacture and are returned after having been exposed, or exposed and developed, and, in the case of motion picture films, that they will not be used for commercial purposes. This modification shall also be made in the declaration by the foreign shipper provided for in paragraph (a)(1) of this section. **[TDs 53557, 55978, 72-119.]**

(g) *Aircraft and aircraft parts and equipment.*—(1) In the case of aircraft and aircraft parts and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, by or for the account of an aircraft owner or operator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on Customs form 3311. The entry summary on Customs form 3311 shall be executed by the entrant and supported by the entry documentation required by section 142.3 of this chapter. If the Customs officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section shall not be required, and no bond need be filed for their production.

(2) The entrant shall show on Customs form 3311:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles returned to (name and address)",

(ii) The name of the importing vessel or conveyance,

(iii) The date of its arrival,

(iv) A description of the articles,

(v) The value of the articles, and

(vi) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If Customs form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary. **[TDs 68-26, 72-119, 78-99, 79-221.]**

(h) *Nonconsumable vessel stores and equipment.*—(1) In the case of nonconsumable vessel stores and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, the entry summary may be made on Customs form 3311. The entry summary on Customs form 3311 shall be executed in duplicate by the entrant and supported by the entry documentation required by section 142.3 of this chapter. Before an entry summary on Customs form 3311 may be accepted for nonconsumable vessel stores and equipment, the Customs officer shall be satisfied that:

(i) The articles are products of the United States,

(ii) The articles have not been improved in condition or advanced in value while abroad,

(iii) No drawback has been or will be paid, and

(iv) No duty equal to an internal revenue tax is payable under item 804.20, Tariff Schedules of the United States.

(2) The declaration of the foreign shipper described in paragraph (a)(1) of this section and the certificate of exportation described in paragraph (a)(3) of this section shall not be required in connection with an entry for nonconsumable vessel stores and equipment on Customs form 3311.

(3) To satisfy the Customs officer that no drawback has been or will be paid on the article in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts shall furnish a written declaration which may be made on the reverse side of Customs form 3311 showing that the articles were:

(i) Exported as stores or equipment on a U.S. vessel or a vessel operated by the U.S. Government,

(ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed, or,

(iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also shall show:

(i) The name of the importing vessel,

(ii) The date of its arrival,

(iii) A description of the articles, and

(iv) The value of the articles.

(5) If Customs form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary. **[TDs 72-119, 78-99, 79-221.]**

(i) When the total value of articles of claimed American origin contained in any shipment does not exceed $250 and such articles are found to be unquestionably products of the United States and do not appear to have been advanced in value or improved in condition while abroad and no quota is involved, free entry thereof may be made under item 800.00 on Customs Form 3311, executed by the owner, importer, consignee, or agent and filed in duplicate, without regard to the requirement of a certificate of exportation or evidence of similar purport, unless the Customs officer has reason to believe that Customs drawback or exemption from internal revenue tax, or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The entrant shall show on Customs Form 3311 the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the value of the articles. The entrant shall also produce evidence of his right to make entry (except as provided in § 142.11(b) of this chapter). If the Customs officer is not entirely certain that the articles to be entered under this paragraph by a nominal consignee are products of the United States, the actual owner or ultimate consignee thereof may be required to execute a Customs Form 3311. (46 Stat. 759; 19 U.S.C. 1202) **[TD 72-119, 78-99.]**

§ 10.3 Drawback; internal-revenue tax.

(a) Except as prescribed in § 10.1(f) or in paragraphs (c) and (f) of this section, no free entry shall be allowed under schedule 8, part 1, Tariff Schedules of the United States, in the final liquidation of an entry unless the district director of Customs is satisfied by the certificate of exportation or other evidence or information that no drawback was allowed in connection with the exportation from the United States, and unless no internal-revenue tax is imposed on the importation of like articles not previously exported from the United States or, if such tax is being imposed at the time of entry for consumption or withdrawal from warehouse for consumption, the district director of Customs is satisfied that an internal-revenue tax on production or importation was paid in respect of the imported article before it was exported from the United States and was not refunded.[2] Except as provided for in § 10.1(f), when it is impracticable, because of the destruction of Customs records or other circumstances, to determine whether drawback was allowed, or the amount of drawback allowed, with respect to an article established to be a returned product of the United States which has not been advanced in value or improved in condition while abroad, there shall be assessed on the returned article an amount of duty determined as follows: (1) If there is any likelihood that drawback was allowable on the exportation of like articles at any time when the imported article may have been exported from the United States, the estimated amount of any drawback which would have been allowable if duty had been paid on any foreign merchandise likely to have been used in the manufacture of the returned article at the rate or rates applicable to such foreign merchandise on the date of importation of the returned article (see paragraph (b) of this section) and (2) if there is any likelihood that a refund or remission of tax was allowed on the exportation of the returned article, the amount of any internal-revenue tax which would be payable at the time of importation if the returned article were wholly of foreign origin, but in no such case shall there be assessed more than an amount equal to the duty and tax that would apply if the returned article were wholly of foreign origin and originally imported. (See § 10.7(a).) Except as provided for in § 10.1(f), if the imported article is of a kind which would be subject to an internal-revenue tax if of foreign origin and payment of an internal-revenue tax before exportation without refund thereof is not established, duty shall be assessed on the imported article in an amount equal to the internal-revenue tax imposed at the time of entry for consumption or withdrawal from warehouse for consumption on like articles of foreign origin, plus the amount of any drawback allowed on the exportation of the article from the United States; but if no drawback was allowed, the duty equal to internal-revenue tax shall be the total duty to be assessed. If an allowance of drawback on the exportation from the United States of the imported article is established, duty shall be assessed in an amount equal to such drawback, plus an amount equal to any internal-revenue tax which may be assessable in accordance with this paragraph; but in no case shall duty equal to drawback, or to drawback and internal-revenue tax, be assessed in an amount in excess of the ordinary Customs duty and internal-revenue tax applicable to like articles of foreign origin. In any case, where payment of internal-revenue tax before exportation without refund thereof is established, no duty equal to an internal-revenue tax currently in force shall be assessed. **[TDs 44599, 49658, 53336, 53557, 53687, 55978, 68-104.]**

(b) In the absence of satisfactory evidence as to the nonallowance of drawback or the amount thereof allowed on the following articles of American manufacture or production, duty shall be assessed thereon in the amounts respectively indicated, the amount shown in each case being considered the fair average amount of drawback allowed on such articles: **[TDs 53687, 53909.]**

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[2] "Articles previously exported from the United States which are excepted from free entry under any of the foregoing items by headnote 1 of this subpart and are not otherwise free of duty [are subject to] a duty (in lieu of any other duty or tax) equal to the sum of any duty and internal-revenue tax imposed upon the importation of like articles not previously exported, but in no case in excess of the sum of any customs drawback proved to have been allowed upon such exportation of the article and any internal-revenue tax imposed, at the time such article is entered, upon the importation of like articles not previously exported." (Item 804.00, Tariff Schedules of the United States.)

"For the purposes of item 804.00—

"(a) when because of the destruction of customs records or for other cause it is impracticable to establish whether drawback was allowed, or the amount allowed, on a returned article, there shall be assessed thereon an amount of duty equal to the estimated drawback and internal-revenue tax which would be allowable or refundable if the imported merchandise used in the manufacture or production of the returned article were dutiable or taxable at the rate applicable to such merchandise on the date of entry, but in no case more than the duty and tax that would apply if the article were wholly of foreign origin;

"(b) Tobacco products and cigarette papers and tubes classifiable under such item may be released from customs custody, without payment of that part of the duty attributable to the internal-revenue tax, for return to internal-revenue bond as provided by section 5704(d) of the Internal Revenue Code of 1954; and

"(c) in order to facilitate the ascertainment and collection of the duty provided for, the Secretary of the Treasury is authorized to ascertain and specify the amounts of duty equal to drawback or internal-revenue tax which shall be applied to articles or classes or kinds of articles, and to exempt from the assessment of duty articles or classes or kinds of articles with respect to which the collection of such duty involves expense and inconvenience to the Government which is disproportionate to the probable amount of such duty." (Schedule 8, part 1A headnote 2 Tariff Schedules of the United States.)

Article	Duty assessment
Drums, metal (when not exempt from duty in accordance with sec. 10.3(c))	24 cents each.
Hosiery, nylon	45 cents per dozen.
Lead compound, tetraethyl	$0.006 per pound.
Lithopone	$0.00143 per pound.
Oxide, zinc	$0.0065 per pound.
Piece goods, cotton:	
Bleached	$0.02675 per square yard.
Dyed	$0.02888 per square yard.
Printed	$0.02697 per square yard.
Piece goods, nylon: Dyed	$0.24320 per square yard.
Piece goods, rayon:	
Printed	$0.04070 per square yard.
Other than printed (white, piece dyed or yarn dyed)	$0.07089 per square yard.
Tallow, refined, inedible	$0.007 per pound.

(c) The following articles shall be admitted free of duty, even though exported from the United States with benefit of drawback:

(1) Any article of a kind which would be admitted free of duty otherwise than under schedule 8, part 1, Tariff Schedules of the United States if of foreign origin; **[TD 55978.]**

(2) Substantial containers or holders of domestic manufacture, including shooks and staves when returned as boxes or barrels, when in use at the time of importation as the usual containers of merchandise; **[TDs 44269, 44599, 45280, 47581, 47699, 47822, 55978.]**

(3) Any article provided for in item 804.00 Tariff Schedules of the United States, with respect to which the district director has determined that the collection of duty under such item 804.00 would involve an expense and inconvenience to the Government disproportionate to the probable amount of such duty; and **[TDs 53336, 53687, 55978.]**

(4) Other articles of domestic manufacture which are in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty, which have not been advanced in value or improved in condition while abroad by any process of manufacture or other means.[3]

(d) Articles manufactured or produced in the United States in a Customs bonded warehouse and exported shall be subject on reimportation to a duty equal to the total duty and internal-revenue tax, if any, imposed at the time of entry for consumption or withdrawal from warehouse for consumption with respect to the importation of like articles not previously exported from the United States. **[TD 38673.]**

(e) Animals straying across the border or driven across the border for pasturage purposes or for feeding to improve them for the market and not returned within 8 months are excluded from free entry as domestic products returned.

(f) Tobacco products and cigarette papers and tubes classifiable under item 804.00, Tariff Schedules of the United States, may be released from customs custody without the payment of that part of the duty attributable to the internal-revenue tax for return to internal-revenue bond as provided by section 5704(d) of the Internal Revenue Code of 1954. **[TD 68-104.]**

§ 10.4 Internal-revenue marks; erasure.

Internal-revenue brands or marks on casks or other containers previously exported from the United States must be erased at the importer's expense under Customs supervision before their delivery from Customs custody.

§ 10.5 Shooks and staves; cloth boards; district director's account.

(a) Shooks and staves produced in the United States and returned in the form of complete boxes or barrels in use as the usual containers of merchandise are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under the regulations in this part. **[TDs 33369, 47559, 49658, 54056.]**

(b) The term "shook" embraces only shooks which at the time of exportation from this country are ready to be assembled into boxes or barrels without further cutting to size; except that box shooks may be exported in double lengths and cut abroad. The number of boxes made from such shooks which may be imported into this country free of duty cannot exceed the number of complete sets of shooks exported. **[TD 33323.]**

(c) [Reserved]

(d) An exporter of shooks or staves in respect of which free entry is to be claimed when returned as boxes or barrels shall file in triplicate with the district director at the port of exportation, at least 6 hours before the landing of the articles on the exporting vessel, a notice of intent to export, Customs Form 3311. **[TDs 55941, 55978, 78-99.]**

(e) The certificate of exportation block of Customs Form 3311 shall be completed in triplicate by the district director after verification from the manifest of the exporting vessel and the return of the lading officer. The original shall be forwarded by the district director to the consignee. The duplicate copy shall be given to the exporter and the triplicate copy shall be retained. **[TDs 54056, 55941, 78-99.]**

(f) Whenever boxes or barrels alleged to have been manufactured from American shooks or staves are shipped to the United States from a person abroad other than the one to whom they were exported from the United States, the importer shall be required to obtain from the foreign consignee to whom the shooks or staves were originally exported from this country the certificate or certificates, Customs Form 3311, covering the exportation of the shooks or staves from the United States, or an extract therefrom signed by such consignee, showing the number of shooks or staves covered by such certificate or certificates, together with the number of superficial feet of such shooks or staves. Such Form 3311, or extract therefrom, shall be filed by the importer in connection with the entry of the boxes or barrels. **[TDs 54056, 55941, 78-99.]**

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[3] Filling, sealing, and labeling are held to advance the value of the contents rather than that of the container.

(g) Accounts shall be kept by the district director at the port of exportation of the shooks and staves as to each exportation thereof and as to the returns thereof in boxes, barrels, etc. Notifications of such returns shall be given to the port of exportation by the district director at the port of importation. When returns in the form of boxes, barrels, etc., entirely account for the shooks and staves exported as shown on the appropriate Customs Form 3311, the district director maintaining the account shall so inform the district director making inquiry about the merchandise being imported and alleged to contain shooks or staves covered by the particular exportation. **[TDs 54056, 55941, 78-99.]**

(h) A record of cloth boards of domestic manufacture exported[5] to be wrapped with foreign textiles shall be kept by district director in a similar manner as for shooks and staves. If such boards are advanced in value or improved in condition while abroad, free entry shall be denied on importation. **[TDs 54056, 55978.]**

§ 10.6 Certificates of foreign shipper and box maker.

(a) A foreign shipper desiring to export to the United States boxes or barrels alleged to have been made from American shooks shall execute and send with the invoice covering the merchandise contained in such boxes or barrels a certificate of the foreign shipper, stating that the boxes or barrels were made from American shooks or staves, and identifying the latter with the certificate covering their exportation from the United States. This foreign shipper's certificate shall be in the following form: **[TDs 47559, 53336, 54056.]**

I, ————————————————————, of ——————————————, do hereby certify that to the best of my knowledge and belief the boxes and (or) barrels mentioned in (the annexed invoice)* (invoice No.————————, of ———————, 19—)* are made (wholly)* (except for the ends and partitions)* of shooks (or staves) of the manufacture of the United States, as stated in the accompanying certificate of ———————————————, box maker; that the shooks (or staves) were exported from——————————————, per S.S ——————————————, on ————————, 19—, and that the said boxes (or barrels) (will be)* (have been)* filed with ——————————, covered by the above-mentioned invoice, and (will be)* (have been)* shipped to the port of ————————————— in the United States, per S.S ———————————————, sailing from ————————————————, on —————————, 19—.

Dated at——————————this——————day of————————, 19—

____
(Shipper)

(b) There shall be annexed to the certificate of the foreign shipper, on the same or a separate form, a certificate of the box maker, stating that the boxes or barrels were made from American shooks or staves and showing the number of boxes or barrels in the shipment, the dimensions of each, and number of shooks or staves of each size, together with the number of superficial feet of lumber used. This certificate shall be in the following form:

I,——————————————, of——————————————, do hereby certify that the boxes and (or) barrels mentioned in the annexed certificate of foreign shipper were made by me (wholly)* (except for the ends and partitions)* from shooks (or staves) of the manufacture of the United States as follows:

Number of boxes or barrels	Dimensions	Number of shooks or staves used and size thereof	Number of superficial feet used

Dated at ———————————————, this ——————— day of ————————————————, 19——.

____
(Box maker)

(c) If a claim accompanied by an appropriately modified Customs Form 3311 is made by the importer at the time of filing the entry for an exemption from duty on account of boxes or barrels made from American shooks or staves, the certificate of the foreign shipper with the annexed certificate of the box maker may be accepted if produced at any time prior to the liquidation of the entry. Upon receipt, from the district director at the port of exportation of the shooks and staves, of corroboration that the records of exportation do not conflict materially with such claim, the exemption may be allowed. If the claim for an exemption is disallowed in full or in part, the importer may file a request within 15 days of the date of the district director's notice to him of any disallowance, for referral of the question to the Commissioner of Customs for review. **[TD 54056.]**

§ 10.7 Substantial containers or holders.

(a) Except as provided for in § 10.2(b), substantial containers or holders, which are products of the United States, which are of the usual and ordinary types used in the shipment or transportation of goods, which are reusable for such purposes, and which are imported containing or holding merchandise, shall be entered under the general regulations governing the free entry of domestic products exported and returned. When such containers or holders are imported not containing or holding merchandise they may be admitted without entry if readily identifiable as products of the United States. **[TDs 44148, 47559, 49585, 49658, 53687, 55978.]**

(b) Substantial containers or holders, which are of foreign production and previously imported duty paid, which are of the usual or ordinary types used in the shipment or transportation of goods, which are reusable for such purpose, and which are imported containing or holding merchandise, shall be exempt from duty if (1) exported in accordance with the regulations contained in § 10.5 (d) and (e), and (2) there are filed in connection with the entry a declaration of the importer on Customs Form 3289 and a certificate of the foreign shipper in the form prescribed by paragraph (c) of this section. **[CD 450. TDs 30404, 34955, 39623, 49658, 54056, 55941, 55978.]**

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[5] Cloth boards of domestic manufacture are conditionally free of duty under schedule 8, part 1, Tariff Schedules of the United States, See footnote 1 of this part.

*Cross out inapplicable words.

(c) The certificate to be furnished by the foreign shipper for the use of the collector at the port of entry shall be in the following form: **[TDs 49658, 54056, 55978.]**

I,—————————, of—————————, do hereby certify that to the best of my knowledge and belief the substantial containers and holders mentioned in (the annexed invoice) (invoice No.————of ————, 19—) * are of the manufacture of ——————————and were exported from the United States at the port of———————, per S.S. ———————— on ————, 19—, and that the same are being returned to the United States (empty) filled with ————) (holdings —————————).*

Shipper

(d) The district director, after verification of the foreign shipper's certificate with the records of the district director at the port of exportation in this country, shall allow free entry to the extent the basis for such allowance is verified. The procedure in the last two sentences of § 10.6(c) shall be applicable. **[TDs 54056, 55978.]**

(e) If claim for exemption from duty for such containers or holders of foreign production previously imported duty paid is made at the time of entry, the certificate of the foreign shipper may be accepted if produced at any time prior to the liquidation of the entry. **[TDs 49658, 54056, 55978.]**

(f) When such containers or holders of foreign production previously imported duty paid are reimported empty, they may be admitted without entry if readily identifiable as having been previously imported duty paid. **[TD 55978.]**

§ 10.8 Articles exported for repairs or alterations.

(a) Before exporting articles which are subject on return to the United States to duty on the value of the repairs or alterations performed abroad, as provided for in item 806.20, Tariff Schedules of the United States, a Certificate of Registration (top portion of Customs Form 4455) shall be filed (in an original only) by the owner or exporter with the district director before the departure of the exporting conveyance. This procedure will permit the district director to examine the articles before they are exported. The applicant shall be notified by the district director of the place to which he shall deliver the articles for examination. All expense in connection with the delivery of the articles, cording, sealing, marking, and transfer to the exporting conveyance, shall be paid by the exporter. Except for those articles exported by mail which can be identified by manufacturer's mark or number, the district director may require the articles to be exported under Customs supervision. If supervision is required, a photograph of the article or some other means of identification, shall be furnished to the Customs officer. **[Abs. 4827. CDs 438, 717. CIE 761/40. TDs 33890, 35330, 44212, 44757, 47304, 49658, 50249(3), 54995, 55978, 72-119, 82-49.]**

(b) When the report of the Customs officer showing the examination of the articles and their lading on the exporting conveyance or their delivery for mailing has been endorsed on the Customs Form 4455 covering such articles, the form shall be given to the exporter for use in connection with the return of the articles. If the articles are being exported through the mails and the Customs Form 4455 has been completed in duplicate, the Customs officer shall enclose the duplicate copy of the form in the package being exported. The owner or exporter, in all other cases, may enclose a duplicate copy of the certificate with the articles being exported in any other manner for repairs or alterations. In order to facilitate the entry of articles, regardless of the mode of exportation, the foreign shipper may include a duplicate copy of the registration certificate, completed prior to exportation, in the returned package. **[TDs 53336, 53611, 55978, 72-119.]**

(c) When an exporter resides more than 20 miles from a Customs office, articles being exported for repairs or alterations through the mail, may, in accordance with the following procedures which have been approved by the Post Office Department, be exported through a local post office: **[TDs 55978, 72-119.]**

(1) The articles shall be delivered to the postmaster in an unpacked condition;

(2) Customs Form 4455 completed in original and duplicate shall be presented to the postmaster with the articles;

(3) The original Customs Form 4455 with the Certificate of Registration executed by the postmaster shall be returned to the exporter for use, if necessary, in clearing articles on their return to the United States;

(4) The duplicate Form 4455 shall be enclosed in the parcel with the articles being exported and shall accompany the articles on their return to the United States to facilitate processing the entry; and

(5) The exporter shall bear all expense incurred under this procedure, including charges assessed by the U.S. Postal Service.

(d) When articles other than those exported by mail or parcel post are examined and registered at one port and exported for repair or alterations through another port, the district director may require proof of exportation in those cases where the Customs Form 4455 does not reflect that the subject articles were exported under Customs supervision. **[TDs 55978, 72-119, 82-49.]**

(e) There shall be filed in connection with an entry covering articles entered under the provisions of item 806.20, a declaration from the person who performed such repairs or alterations in substantially the following form: **[TD 55978, 72-119.]**

(Place and date)

I, ———————————, declare that the articles herein specified are the articles which, in the condition in which they were exported from the United States, were received by me (us) on ————, 19——, from —————————— (Name and address of owner or exporter in the United States); that they were received by me (us) for the sole purpose of being repaired or altered; that only the repairs or alterations described below were performed by me (us); that the full cost or (when no charge is made) fair market value of such repairs or alterations are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally received by me (us) from the owner or exporter thereof mentioned above.

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*Cross out inapplicable words.

Marks and numbers	Description of articles and of repairs or alterations	Full cost or (when no charge is made) fair market value of repairs or alterations*	Total value of articles after repairs or alterations

(Date)

(Address)

(Signature)

(Capacity)

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* See Headnote 2, Part 1B, Schedule 8, Tariff Schedules of the United States.

(f) There shall be filed in connection with the entry the Certificate of Registration (Customs Form 4455) a declaration made by the owner, importer, consignee, or agent having knowledge of the facts that the articles entered in their repaired or altered condition are the same articles covered by the Certificate of Registration. This declaration shall also show that the full cost or (when no charge is made) fair market value of the repairs or alterations is correctly stated in the entry. When all of the merchandise covered by the Certificate of Registration (Customs Form 4455) is not entered at one time or at one port of entry, in the case of importations not exceeding $250 in value, the district director at the port where any portion of the merchandise is entered shall note the quantity entered on the registration certificate and return the certificate to the submitter thereof for use in connection with any further importation covered by such certificate. **[TD 72-119.]**

(g) When all the merchandise covered by a Certificate of Registration (Customs Form 4455) is not entered at one time or at one port of entry, in the case of importations valued in excess of $250, there shall be filed with the entry at the time of entry the certification of the owner, importer, consignee, or agent having knowledge of the facts, that the articles entered in their repaired or altered condition are a portion of the articles covered by such Certificate of Registration. This certification shall be filed in lieu of the Certificate of Registration (Customs Form 4455), in the following form: **[TDs 72-119, 79-159.]**

I hereby certify that the merchandise covered by entry No. ——— dated ————————, is a portion of the merchandise exported under Customs Form 4455 —————————— (Certificate of registration No.) dated ————————, to ——————————— (Name of foreign consignee) ———, for the purpose and with the intent of —————————— (Repairing or altering) the articles in the foreign country. I further certify that original Customs Form 4455 has been charged with the quantities herein, identified with the entry and port, and will be maintained at —————————— (Firm and address) for a period of 5 years from the date of the related entry of the merchandise covered by such Certificate of Registration, for verification by appropriate Customs officers.

(h) The Certificate of Registration (Customs Form 4455) referred to in paragraph (g) of this section shall be retained by the firm therein referred to for a period of 5 years from the date of the related entry of the merchandise covered by the Certificate of Registration for verification by appropriate Customs officers. Each quantity entered shall be accounted for in such a manner as to identify the specific entry (entry number), and port of entry, with the total quantity of the exported articles on the reverse side of the Certificate of Registration (Customs Form 4455) until the total quantity has been entered. **[TDs 49703(2), 53336, 72-119, 79-159.]**

(i) If the district director concerned is satisfied because of the nature of the articles, or production of other evidence, that the articles are imported under circumstances meeting the requirements of item 806.20 and related headnotes, he may waive the declaration provided for in paragraphs (e) and (f) of this section. **[TDs 42258, 49658, 53336, 54462, 55978, 72-119.]**

(j) In the event there has been compliance with registration requirements set forth in paragraph (a) of this section and Customs Form 4455 is not available at the time of entry, the district director may waive the production of Customs Form 4455 provided the merchandise is entered at one time at one port of entry, and he is satisfied that the returned merchandise meets the requirements of item 806.20 and related headnotes. **[TDs 55574, 55978, 72-119.]**

(k) In any case where an imported article was exported for repairs or alterations without compliance with the registration requirements of this section, the district director may waive the production of Customs Form 4455 if he is satisfied that the returned merchandise is entitled to entry under item 806.20 and that the failure to comply with the registration requirements was due to inadvertence, mistake, or inexperience, and not to negligence or bad faith. The district director may also, in his discretion, waive the registration requirements of this section, prior to exportation of the articles, upon application in writing by an exporter-importer located within his district when it is indicated that the duty on merchandise would be less than $25 if not within the purview of item 806.20 and it is indicated that the shipment on its return to the United States will be covered by a mail or other informal entry. Customs Form 4455, appropriately modified, may be used by the district director in issuing the waiver. **[TDs 55942, 55978, 72-119.]**

(l) The district director shall require at the time of entry a deposit of estimated duties based upon the full cost or fair market value, as the case may be, of the repairs or alterations. The cost or fair market value, as the case may be, of the repairs or alterations outside the United States, which is to be set forth in the invoice and entry papers as the basis for the assessment of duty under item 806.20, shall be limited to the cost or value of the repairs or alterations actually performed abroad, which will include all domestic and foreign articles furnished for the repairs or alterations, but shall not include any of the expenses incurred in this country whether by way of engineering costs, preparation of plans or specifications, and furnishing of tools or equipment for doing the repairs or alterations abroad or otherwise. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1202) **[TDs 55978, 72-119.]**

§ 10.8a Imported articles exported and reimported.

(a) In addition to regular entry procedures, supplementary documentation is required in connection with duty-free entries under item 801.10, Tariff Schedules of the United States (19 U.S.C. 1202), of articles which were originally entered duty paid, removed from Customs custody, and subsequently exported, if: **[TD 72-221.]**

(1) The articles were exported within 3 years after the date of the previous importation.

(2) The articles were not advanced in value or improved in condition by any process of manufacture or other means while abroad.

(3) The articles did not conform to sample or specifications abroad.

(4) The articles are reimported by or for the account of the person who imported them into and exported them from the United States.

(b) The following supplementary documents shall be filed in connection with the entry of articles claimed to be free of duty under item 801.10, Tariff Schedules of the United States:

(1) A declaration by the person abroad who received and is returning the merchandise to the United States, in substantially the following form:

I declare that the————————————————(Description of articles) were received by me from ——————————————————— (Name and address of U.S. exporter), that they have not been advanced in value or improved in condition by any process of manufacture or other means and are being returned to ————————————————(Name and address of consignee in the United States) because they do not conform to sample or specifications for the following reasons:

(Date) (Signature)

(Address) (Title)

(2) A declaration by the owner, importer, consignee, or agent, in substantially the following form:

I declare that the ——————————————(Description of articles) were previously imported into the United States at the Port of ——————————(Name of port), Entry No.—, on ————————— (Date of entry) by ——————————————(Name and address of importer) at which time duty was paid; that they were exported from the United States at the Port of——————————(Name of port) on——————————————(Date of exportation) by ——————————————(Name and address of exporter) without benefit of drawback; that the articles are being reimported by or for the account of ——————————, and, that the attached declaration from ———————————————— (Name of foreign shipper) is correct in every respect.

(Date) (Signature)

(Address) (Title)

(c) If the district director concerned is reasonably satisfied because of the nature of the articles or production of other evidence that the requirements of item 801.10, Tariff Schedules of the United States, and the related headnotes have been met, he may waive the production of the documents provided for in paragraph (b) of this section. (Secs. 484, 624, 46 Stat. 722, as amended, 759; 19 U.S.C. 1202, 1484)

§ 10.9 Articles exported for processing.

(a) Before the exportation of articles subject, on return to the United States, to duty on the value of the processing performed abroad as provided for in item 806.30, a certificate of registration (top portion of Customs Form 4455), shall be filed (in an original only), by the owner or exporter with the District Director of Customs at a time prior to the departure of the exporting conveyance which will permit an examination of the articles. A statement shall be included on the reverse side of Customs Form 4455 by the exporter or owner substantially as follows: **[TDs 67-108, 72-119, 73-136.]**

The articles described in this certificate were manufactured in the United States by ——————————————————(Name and address) or, if of foreign origin, were subjected to ——————————————————(show processes of manufacture, such as molding, casting, machining, etc.) in the United States by——————————(Name and address) The articles in their changed conditions will be returned for further processing by——————————————————(Name and address); or, if further processing of the articles in the United States will be performed by a person not presently known, the reasons for believing the articles will be returned for further processing are

and the reason the person is not presently known is ————————————————

(b) The applicant shall be notified by the district director of the place to which he shall deliver the articles for examination. All expense in connection with the delivery of the articles, cording, sealing, marking, and transfer to the exporting conveyance, shall be borne by the exporter. The articles shall be exported under Customs supervision, except those articles exported by mail which can be identified by manufacturer's mark or number. A photograph or other means of identification shall be furnished when required by the Customs officer. **[TD 72-119.]**

(c) When the report of the Customs officer showing the examination of articles and their lading on the exporting conveyance or their delivery for mailing has been endorsed on the Customs Form 4455 covering such articles, the form shall be given to the exporter for use in connection with the return of the articles. If the articles are being exported through the mails and the Customs Form 4455 (Certificate of Registration) has been completed in duplicate, the Customs officer shall enclose the duplicate copy of the form in the package being exported. The owner or exporter, in all other cases, may enclose a duplicate copy of the certificate with the articles being exported in any manner for processing. In order to facilitate the entry of an article, regardless of the mode of exportation, the foreign shipper may include a duplicate copy of the registration certificate, completed prior to exportation, in the returned package. **[TD 72-119.]**

(d) When articles other than those exported by mail or parcel post are examined and registered at one port and exported for processing through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry. **[TD 72-119.]**

(e) There shall be filed in connection with an entry covering articles entered under the provisions of item 806.30, a declaration by the person who performed the processing abroad in substantially the following form: **[TD 72-119.]**

____

(Place and date)

I, ——————————————, declare that the articles herein specified are the articles which, in the condition in which they were exported from the United States, were received by me (us) on ———————, 19—, from ——————————————————(Name and address of owner or exporter in the United States); that they were received by me (us) for the sole purpose of being processed; that only the processing described below was effected by me (us); that the full cost or (when no charge is made) fair market value of such processing and the value of the articles after processing are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally received by me (us) from the owner or exporter thereof mentioned above.

Marks and numbers	*Description of articles and of processing*	*Full cost or (when no charge is made) fair market value of processing**	*Total value of article after processing*

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* See Headnote 2, Part 1B, Schedule 8, Tariff Schedules of the United States.

(f) There shall be filed in connection with the entry the Certificate of Registration (Customs Form 4455) and a declaration made by the owner, importer, consignee, or agent having knowledge of the facts that the articles entered in their processed condition are the same articles covered by the Certificate of Registration. This declaration shall also show that the full cost or (when no charge is made) fair market value of the processing is correctly stated in the entry. There shall be included a concise statement as to the nature of the processing performed outside the United States immediately prior to the current importation and to the processing to be performed thereafter in the United States, showing the name and address of the processor who will do the subsequent processing. When all of the merchandise covered by the Certificate of Registration (Customs Form 4455) is not entered at one time or at one port of entry, in the case of importations not exceeding $250 in value, the district director at the port where any portion of the merchandise is entered shall note the quantity entered on the registration certificate and return the certificate to the submitter thereof for use in connection with any further importation covered by such certificate. **[TD 72-119.]**

(g) When all the merchandise covered by the Certificate of Registration (Customs Form 4455) is not entered at one time or at one port of entry, in the case of importations valued in excess of $250, there shall be filed with the entry at the time of entry the certification of the owner, importer, consignee, or agent having knowledge of the facts, that the articles entered in their processed condition are a portion of the articles covered by such certificate of registration. This certificate shall be filed in lieu of the Certificate of Registration (Customs Form 4455) in the following form: **[TDs 72-119, 79-159.]**

I hereby certify that the merchandise covered by entry No. ——— dated ———————, is a portion of the merchandise exported, under Customs Form 4455————————————(Certificate of registration No.) dated ——————————, to ————————————(Name of foreign consignee), for the purpose and with the intent of processing the metal articles in the foreign country and the further processing of the metal articles upon subsequent importation into the United States.

I further certify that original Customs Form 4455 has been charged with the quantities herein, identified with the entry and port, and will be maintained at

____
(Firm and address)

for a period of 5 years from the date of the related entry of the merchandise covered by such Certificate of Registration, for verification by appropriate Customs officers.

(h) The Certificate of Registration (Customs Form 4455) referred to in paragraph (g) of this section shall be retained by the firm therein referred to for a period of 5 years from the date of the related entry of the merchandise covered by the Certificate of Registration for verification by appropriate Customs officers. Each quantity entered shall be accounted for in such a manner as to identify the specific entry (entry number), and port of entry with the total quantity of the exported articles on the reverse side of the Certificate of Registration (Customs Form 4455) until the total quantity has been entered. **[TDs 72-119, 79-159.]**

(i) If the district director concerned is satisfied, because of the nature of the articles or production of other evidence, that the articles are imported in circumstances meeting the requirements of item 806.30 and related headnotes, he may waive the declaration provided for in paragraphs (e) and (f) of this section. **[TD 72-119.]**

(j) In the event there has been compliance with the registration requirements (Customs Form 4455) set forth in paragraph (a) of this section and such form (Customs Form 4455) is not available at the time of entry, the district director may waive the production of Customs Form 4455 provided the merchandise is entered at one time at one port of entry, and he is satisfied that the returned merchandise meets the requirements of item 806.30, Tariff Schedules of the United States, and the related headnotes. **[TD 72-119.]**

(k) In any case where an imported article was exported for processing without compliance with the registration requirements of this section, the district director may waive the Customs Form 4455 if he is satisfied that the returned merchandise is entitled to entry under item 806.30, and that the failure to comply with the registration requirements was due to inadvertence, mistake, or inexperience, and not to negligence or bad faith. The district director may also, in his discretion, waive the registration requirements of this section, prior to exportation of the articles, upon application in writing by an exporter-importer located within his district when it is indicated that the duty on the merchandise would be less than $25 if not within the purview of item 806.30, it is indicated that the shipment on its return to the United States will be covered by a mial or other informal entry. Customs Form 4455, appropriately modified, may be used by the district director in issuing the waiver. **[TD 72-119.]**

(l) The district director shall require at the time of entry a deposit of estimated duties based upon the full cost or fair market value, as the case may be, of the processing. The cost or fair market value, as the case may be, of the processing outside the United States which is set forth in the invoice and entry papers as the basis for the assessment of duty under item 806.30, shall be limited to the cost or value of the processing actually performed abroad (including all domestic and foreign articles used in the processing, but does not include the exported United States metal article) and shall not include any of the expenses incurred in this country, whether by way of engineering costs, preparation of plans or specifications, and the furnishing of tools or equipment for doing the processing abroad, or otherwise. (R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624) **[TD 72-119.]**

§ 10.10 Newsreel films.

Where free entry is claimed for newsreel films under the provisions of item 724.05, Tariff Schedules of the United States,[8] there shall be furnished in connection with the entry a statement of the cameraman, shipper, or other person having knowledge of the facts, identifying the films with the invoice and stating that the basic films have to the best of his knowledge and belief been exposed abroad and that they are shipped for use as newsreel of current events abroad. The invoice shall state the footage and title of each subject. **[TDs 44703, 44938, 53268, 55978.]**

Articles Assembled Abroad With United States Components

§ 10.11 General.

(a) Section 10.12 through 10.23 set forth definitions and interpretative regulations adopted by the Commissioner of Customs pertaining to the construction of item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202) and related provisions of law. These provisions concern claims for the exemption from duty provided by item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), for American-made fabricated components which are returned to the United States as parts of articles assembled abroad. The examples included in these sections described specific situations in which the exemption may or may not be applicable. The definitions and regulations that follow are promulgated to inform the public of the constructions and interpretations that the United States Customs Service shall give to relevant statutory terms and to assure the impartial and uniform assessment of duties upon merchandise claimed to be partially exempt from duty under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), at the various ports of entry. Nothing in these regulations purports or is intended to restrict the legal right of importers or others to a judicial review of the matters contained therein. **[TDs 73-27, 75-230.]**

(b) Section 10.24 sets forth the documentary requirements applicable to the entry of assembled articles claimed to be subject to the exemption provided under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202). Allowance of an importer's claim is dependent upon meeting the statutory requirements for the exemption under item 807.00 and his complying with the documentary requirements set forth in § 10.24.

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[8] "Newsreels, not developed, of current events abroad * * *." (Item 724.05, Tariff Schedules of the United States.)

§ 10.12 Definitions.

As used in § § 10.11 through 10.24, the following terms shall have the meanings indicated: **[TDs 73-27, 75-230.]**

(a) *American-made.* The term "American-made" is used to refer to a product of the United States as defined in paragraph (e) of this section.

(b) *Assembly.* "Assembly" means the fitting or joining together of fabricated components.

(c) *Exemption.* "Exemption" means the deduction of the cost or value of products of the United States which were assembled abroad in accordance with the requirements of item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), from the full value of the assembled article.

(d) *Fabricated component.* "Fabricated component" means a manufactured article ready for assembly in the condition as exported except for operations incidental to the assembly.

(e) *Product of the United States.* A "product of the United States" is an article manufactured within the Customs territory of the United States and may consist wholly of United States components or materials, of United States and foreign components or materials, or wholly of foreign components or materials. If the article consists wholly or partially of foreign components or materials, the manufacturing process must be such that the foreign components or materials have been substantially transformed into a new and different article, or have been merged into a new and different article.

§ 10.13 Statutory provision: Item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202).

Item 807.000, Tariff Schedules of the United States (19 U.S.C. 1202), provides that articles assembled abroad in whole or in part of fabricated components, the product of the United States, which (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape, or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating, and painting, are subject to a duty upon the full value of the imported article, less the cost or, if no charge is made, the value of such products of the United States. The rate of duty which is assessed upon the dutiable portion of the imported article is that which is applicable to the imported article as a whole under the appropriate provision of the Tariff Schedules of the United States (19 U.S.C. 1202) for such article. If that provision requires a specific or compound rate of duty, the total duties assessed on the imported article are reduced in such proportion as the cost or value of the returned United States components which qualify for the exemption bears to the full value of the assembled article. **[TD 75-230.]**

Example 1. A transistor radio is assembled abroad from foreign-made components and American-made transistors. Upon importation, the transistor radio is subject to the ad valorem rate of duty applicable to transistor radios upon the value of the radio less the cost or value of the American-made transistors assembled therein.

Example 2. A solid-state watch movement is assembled abroad from foreign-made components and an American-made integrated circuit. If the movement in question is subject to the specific rate of duty of 75 cents if the value of the assembled movement is $30, and if the value of the American-made integrated circuit is $10, then the value of the integrated circuit represents one third of the total value of the assembled article and the duty on the assembled article will be reduced by one third ($.25). Therefore, the duty on the assembled movement is 50 cents.

§ 10.14 Fabricated components subject to the exemption.

(a) *Fabricated components, the product of the United States.* Except as provided in § 10.15, the exemption provided under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), applies to fabricated components, the product of the United States. The components must be in condition ready for assembly without further fabrication at the time of their exportation from the United States to qualify for the exemption. Components will not lose their entitlement to the exemption by being subjected to operations incidental to the assembly either before, during, or after their assembly with other components. Materials undefined in final dimensions and shapes, which are cut into specific shapes or patterns abroad are not considered fabricated components. **[TDs 73-27, 75-230.]**

Example 1. Articles identifiable in their exported condition as components or parts of the article into which they will be assembled, such as transistors, diodes, integrated circuits, machinery parts, or precut parts of wearing apparel, are regarded as fabricated components.

Example 2. Prestamped metal lead frames for semiconductor devices exported in multiple unit strips in which the individual frame units are connected to each other, or integrated circuit wafers containing individual integrated circuit dice which have been scribed or scored in the United States, are regarded as fabricated components. The separation of the individual frames by cutting, or the segmentation of the wafer into individual dice by flexing and breaking along scribed or scored lines, is regarded as an operation incidental to the assembly process.

Example 3. Wires of various type, electrical conductors, metal foils, insulating tapes, ribbons, findings used in dressmaking, and similar products, which are in a finished state when exported from the United States, and are ready for use in the assembly of the imported article, are regarded as fabricated components if they are only cut to length or subjected to operations incidental to the assembly process while abroad.

Example 4. Uncut textile fabrics exported in bolts from which wearing apparel components will be cut according to a pattern are not regarded as fabricated components. Similarly, other materials, such as lumber, leather, sheet metal, plastic sheeting, exported in basic shapes and forms to be fabricated into components for assembly, are not eligible for treatment as fabricated components.

(b) *Substantial transformation of foreign-made articles or materials.* Foreign-made articles or materials may become products of the United States if they undergo a process of manufacture in the United States which results in their substantial transformation. Substantial transformation occurs when, as a result of manufacturing processes, a new and different article emerges, having a distinctive name, character, or use, which is different from that originally possessed by the article or material before being subject to the manufacturing process. The mere finishing or modification of a partially or nearly complete foreign product in the United States will not result in the substantial transformation of such product and it remains the product of a foreign country.

Example 1. A cast metal housing for a valve is made in the United States from imported copper ingots, the product of a foreign country. The housing is a product of the United States because the manufacturing operations performed in the United States to produce the housing resulted in a substantial transformation of the foreign copper ingots.

Example 2. An integrated circuit device is assembled in a foreign country and imported into the United States where its leads are formed by bending them to a specified angle. It is then tested and marked. The imported article does not become a product of the United States because the operations performed in the United States do not result in a substantial transformation of the foreign integrated circuit device.

Example 3. A circuit board assembly for a computer is assembled in the United States by soldering American-made and foreign-made components onto an American-made printed circuit board. The finished circuit board assembly has a distinct electronic function and is ready for incorporation into the computer. The foreign-made components have undergone a substantial transformation by becoming permanent parts of the circuit board assembly. The circuit board assembly, including all of its parts is regarded as a fabricated component, the product of the United States, for purposes of item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 10.15 Fabricated components not subject to the exemption.

Fabricated components which are not products of the United States are excluded from the exemption. In addition, the exemption is not applicable to any component exported from the Customs territory of the United States: **[TDs 73-27, 75-230.]**

(a) From continuous Customs custody with remission, abatement, or refund of duty;

(b) With benefit of drawback;

(c) To comply with any law of the United States or regulation of any Federal agency requiring exportation; or

(d) After manufacture or production in the United States under item 864.05, Tariff Schedules of the United States (19 U.S.C. 1202).

Example. Partially completed components of an electric motor are imported in several separate shipments and are entered under a temporary importation bond to be manufactured into finished motors under the provisions of item 864.05, Tariff Schedules of the United States (19 U.S.C. 1202). The components are completed and assembled into finished electric motors. The finished motors are exported and are assembled abroad into electric fans which are subsequently imported into the United States. Irrespective of the fact that the assembly of the motors might involve such a substantial change that the motor could be considered a product of the United States, no exemption may be given for the value of the electric motors, since they were exported after manufacture or production in the United States under the provision of item 864.05, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 10.16 Assembly abroad.

(a) *Assembly operations.* The assembly operations performed abroad may consist of any method used to join or fit together solid components, such as welding, soldering, riveting, force fitting, gluing, laminating, sewing, or the use of fasteners, and may be preceded, accompanied, or followed by operations incidental to the assembly as illustrated in paragraph (b) of this section. The mixing or combining of liquids, gases, chemicals, food ingredients, and amorphous solids with each other or with solid components is not regarded as an assembly. **[TDs 73-27, 75-230.]**

Example 1. A television yoke is assembled abroad from American-made magnet wire. In the foreign assembly plant the wire is despooled and wound into a coil, the wire cut from the spool, and the coil united with other components, including a terminal panel and housing which are also American-made. The completed article upon importation would be subject to the ad valorem rate of duty applicable to television parts upon the value of the yoke less the cost or value of the American-made wire, terminal panel and housing, assembled therein. The winding and cutting of the wire are either assembly steps or steps incidental to assembly.

Example 2. An aluminum electrolytic capacitor is assembled abroad from American-made aluminum foil, paper, tape, and Mylar film. In the foreign assembly plant the aluminum foil is trimmed to the desired width, cut to the desired length, interleaved with paper, which may or may not be cut to length or despooled from a continuous length, and rolled into a cylinder wherein the foil and paper are cut and a section of sealing tape fastened to the surface to prevent these components from unwinding. Wire or other electric connectors are bonded at appropriate intervals to the aluminum foil of the cylinder which is then inserted into a metal can, and the ends closed with a protective washer. As imported, the capacitor is subject to the ad valorem rate of duty applicable to capacitors upon the value less the cost or value of the American-made foil, paper, tape, and Mylar film. The operations performed on these components are all either assembly steps or steps incidental to assembly.

Example 3. The manufacture abroad of cloth on a loom using thread or yarn exported from the United States on spools, cops, or pirns is not considered an assembly but a weaving operation, and the thread or yarn does not qualify for the exemption. However, American-made thread used to sew buttons or garment components is qualified for the exemption because it is used in an operation involving the assembly of solid components.

(b) *Operations incidental to the assembly process.* Operations incidental to the assembly process whether performed before, during, or after assembly, do not constitute further fabrication, and shall not preclude the application of the exemption. The following are examples of operations which are incidental to the assembly process:

(1) Cleaning;

(2) Removal of rust, grease, paint, or other preservative coating;

(3) Application of preservative paint or coating, including preservative metallic coating, lubricants, or protective encapsulation;

(4) Trimming, filing, or cutting off of small amounts of excess materials;

(5) Adjustments in the shape or form of a component to the extent required by the assembly being performed abroad;

(6) Cutting to length of wire, thread, tape, foil, and similar products exported in continuous length; separation by cutting of finished components, such as prestamped integrated circuit lead frames exported in multiple unit strips; and

(7) Final calibration, testing, marking, sorting, pressing, and folding of assembled articles.

(c) *Operations not incidental to the assembly process.* Any significant process, operation, or treatment other than assembly whose primary purpose is the fabrication, completion, physical or chemical improvement of a component, or which is not related to the assembly process, whether or not it effects a substantial transformation of the article, shall not be regarded as incidental to the assembly and shall preclude the application of the exemption to such article. The following are examples of operations not considered incidental to the assembly as provided under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202):

(1) Melting of exported ingots and pouring of the metal into molds to produce cast metal parts;

(2) Cutting of garment parts according to pattern from exported material;

(3) Painting primarily intended to enhance the appearance of an article or to impart distinctive features or characteristics;

(4) Chemical treatment of components or assembled articles to impart new characteristics, such as showerproofing, permapressing, sanforizing, dying or bleaching of textiles;

(5) Machining, polishing, burnishing, peening, plating (other than plating incidental to the assembly), embossing, pressing, stamping, extruding, drawing, annealing, tempering, case hardening, and any other operation, treatment or process which imparts significant new characteristics or qualities to the article affected.

(d) *Joining of American-made and foreign-made components.* An assembly operation may involve the use of American-made components and foreign-made components. The various requirements for establishing entitlement to the exemption apply only to the American-made components of the assembly.

Example. Diodes are assembled abroad from American-made components. The process includes the encapsulation of the assembled components in a plastic shell. The plastic used for the encapsulation is in the form of a pellet, and is of foreign origin. After the prefabricated diode components are assembled, the assembled unit is placed in a transfer molding machine, where, by use of the pellet, molten epoxy is caused to flow around the perimeters of the assembled components, forming upon solidification a plastic body for the diode. Upon importation, exemption may be granted for the value of the American-made components, but not for the value of the plastic pellet. If the plastic pellet used for encapsulation was of United States origin, its value would still be a part of the dutiable value of the diode, because the plastic pellet is not a fabricated component of a type designed to be fitted together by assembly, but merely a premeasured quantity of material which was applied to the assembled unit by a process not constituting an assembly.

(e) *Subassembly.* An assembly operation may involve the joining or fitting of American-made components into a part or subassembly of an article, followed by the installation of the part or subassembly into the complete article.

Example. Rolls of foil and rolls of paper are exported and cut to specific length abroad and interleaved and rolled to form the electrodes and dielectric of a capacitor. Following this procedure, the rolls are assembled with cans and other parts to form a complete capacitor. The foil and paper are entitled to the exemption.

(f) *Packing.* The packing abroad of merchandise into containers does not in itself qualify either the containers or their contents for the exemption. However, assembled articles which otherwise qualify for the exemption and which are packaged abroad following their assembly will not be disqualified from the exemption by reason of their having been so packaged, whether for retail sale or for bulk shipment. The tariff status of the packing materials or containers will be determined in accordance with General Headnote 6, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 10.17 Valuation of exempted components.

The value of fabricated components to be subtracted from the full value of the assembled article is the cost of the components when last purchased, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers, or, if no purchase was made, the value of the components at the time of their shipment for exportation, f.o.b. United States port of exportation or point of border crossing, as set out in the invoice and entry papers. However, if the appraising officer concludes that the cost or value of the fabricated components so ascertained does not represent a reasonable cost or value, then the value of the components shall be determined in accordance with section 402 or section 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). **[TDs 73-27, 75-230.]**

§ 10.18 Valuation of assembled articles.

(a) *Statutory basis used in valuation.* As in the case of the appraisement of any other imported merchandise (see subpart C of Part 152 of this chapter), the full value of assembled articles imported under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), is determined in accordance with the appropriate statutory basis. **[TDs 73-27, 75-230.]**

(b) *Use of constructed value or cost of production as basis for valuation.* A preponderance of the merchandise entitled to the item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), exemption, is appraised on the basis of constructed value or cost of production.

(1) *Constructed value.* Constructed value is the statutory basis of appraisement authorized by section 402(d), Tariff Act of 1930, as amended (19 U.S.C. 1401a(d)), and is applicable to imported articles which are not on a list compiled by the Department of the Treasury, known as the "final list" (T.D. 54521).

(2) *Cost of production.* Cost of production is the statutory basis of appraisement authorized by section 402a(f), Tariff Act of 1930, as amended (19 U.S.C. 1402(f)), and is applicable to imported articles which are on the "final list" (T.D. 54521).

§ 10.19 Elements involved in determining constructed value or cost of production.

Both constructed value and cost of production of assembled articles are determined from the following cost data: **[TDs 73-27, 75-230.]**

(a) *Cost of materials*. The cost of materials to be reported in connection with a claim for an item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), exemption, where constructed value or cost of production is the basis of appraisement includes, but is not limited to:

(1) The cost or value of all American-made components and other American-made materials f.o.b. the United States port of exportation or point of border crossing. If these items were purchased, there should be included, in addition to the purchase price, all costs incurred up to the time of the items' arrival at the port of exportation, such as packing, freight, insurance, warehousing, sorting, and repacking. If the items were not purchased, the estimated market value f.o.b. port of exportation or point of border crossing shall be used, based on the normal selling price to independent purchasers or other available market information. If market value information is not available, the value of the items shall be the sum of all costs incurred in producing the items, including general expenses, an amount for profit, and all costs incurred from the time the items are completed to the time they arrive at the port of exportation or point of border crossing. **[TD 77-297.]**

(2) Freight, insurance, lading and unlading, and other costs incurred in transporting the American-made components and materials from the port of exportation or point of border crossing to the assembler's plant;

(3) The cost or value of all other components and materials added in the country of assembly as well as the costs incurred in transporting these components and materials to the assembler's plant, including packing, freight, insurance, and lading and unlading;

(4) The value of waste or spoilage, including scrap, such as trimmings, cuttings, and turnings from a lathe, and United States components delivered to the assembler and found to be unusable. The value of waste or spoilage shall be determined from the actual cost of the materials less the market value of recovered scrap or rejected components. Where the assembler returns rejected components to its supplier and receives credit for the rejected components so returned, the credit received by the assembler may be applied as an offset against the assembler's cost of materials; and

(5) Taxes on materials assessed by the country of assembly, but remitted or refunded upon exportation of the finished articles from the country of assembly, such as sales taxes and value added taxes. Such taxes are included under the cost of materials when cost of production is the basis of valuation, but are excluded when constructed value is the basis of valuation.

(b) *Cost of fabrication*. The cost of fabrication of an assembled article includes, but is not limited to:

(1) All actual labor costs involved in the assembly operations, including fringe benefits such as paid holidays, vacations, social security, school taxes, seventh-day pay, on-the-job training, housing allowance, and idle time. Deviation from normal production efficiency to adjust for actual production should be reflected, if necessary, to insure that the total actual labor costs incurred in the assembly are shown in the cost data sheets. For instance, if the efficiency of the production workers does not meet projected expectations, with a consequent increase in unit labor costs, the increased costs should be reflected in the cost data furnished Customs. The costs of engineering, supervisory functions, quality control, and similar personnel expenses shall be included;

(2) Cost of dies, molds, tooling, special machinery, and similar equipment costs which are allocable to the particular merchandise under consideration (as opposed to general costs for plant equipment or machinery, which are included under general expenses);

(3) Costs of research, development, design, engineering, and blueprints, except where they are directly allocable to American-made components. Where they are directly allocable to American-made components they are to be included in the value of those components, and are not to be included in the cost of fabrication.

(4) Costs of inspecting and testing by the assembler; and

(5) Costs of subcontract work, including the general expenses and profit involved in such work, when a foreign assembler has a portion of the assembly work accomplished by a subcontractor. These costs are considered to be part of the cost of fabrication to the foreign assembler.

(c) *General expenses*. General expenses, which are all of the assembler's expenses other than the cost of components, materials, fabrication, and packaging, include, but are not limited to:

(1) Building rent or depreciation;

(2) Costs for utilities, including heat, light, power, and water;

(3) Telephone, telegraph, and cable costs;

(4) Depreciation of machinery and equipment other than dies, molds, tooling, special machinery, and similar equipment allocable to the particular merchandise under consideration;

(5) Expenses for maintenance, repairs, and renewals;

(6) Fire and liability insurance costs;

(7) Taxes on buildings;

(8) Factory storage costs;

(9) Expenses for office and factory supplies;

(10) Administration salaries and expenses (executives', managers', and office workers' salaries), and salesmen's salaries, commissions, and expenses;

(11) Travel expenses;

(12) Advertising expenses;

(13) Licensing fees paid to a foreign government;

(14) Legal expenses;

(15) Nonrefundable expenses relating to the importation of articles into a foreign country, such as foreign brokerage fees;

(16) Auditing expenses of the foreign assembly operation;

(17) Start up costs (other than on-the-job training costs). These include legal fees for the consultant or entrepreneur, a fee for setting up the assembler corporation, costs for construction of buildings and installation of manufacturing machinery, engineering fees and material costs to acquire electricity or other power for the plant, fees for the issuance of any permits required, the cost of a bond given to show good faith, charges for telephone

service, roads and rail spurs, charges for securing a labor force as well as for their pre-training, costs of trusts established to satisfy foreign ownership, the cost of a plant bond to insure exportation of all materials imported into a foreign country for assembly and to insure return of all imported machinery, and expenses of relocating plant management and production supervisors and their families. Start up costs may be amortized over the period of time for which such expenditures are ordinarily amortized by assemblers of the same general class or kind of merchandise in the country of exportation, in keeping with generally accepted accounting practices; and

(18) All other general administrative and overhead expenses including janitorial services, security services, and the services of a foreign warehouse officer.

(d) *Profit.* The assembler's actual profit or loss and the basis upon which it was calculated must be reported. Appraisement by Customs shall be based on the amount of profit which is found to be usual or ordinary in the trade, subject to limitations and requirements more particularly described in the applicable statutory provisions.

(e) *Packing expenses.* All costs of packing or otherwise preparing assembled articles for shipment to the United States must be reported. These costs include, but are not limited to, the cost of containers, the cost of packing materials such as excelsior, straw, and string, the cost of spraying and fumigating packing materials, and the cost of labor for packing. Packing materials of United States origin may be separately exempt from duty under the exemption provided in item 800.00, Tariff Schedules of the United States (19 U.S.C. 1202), for American goods returned without advancement in value or improvement in condition while abroad.

§ 10.20 Cost data required if other statutory basis applicable.

Where it is determined that appraisement is to be made on a value base other than constructed value or cost of production, the importer shall be required to submit cost data of a different nature than required in this part. **[TDs 73-27, 75-230.]**

Example. If United States value is determined to be the proper basis of valuation, the importer may be required to furnish information on his resale price at the wholesale level in the United States, his general expenses and profit on the resale, and other data which is needed to determine United States value, rather than the cost data required to establish constructed value or cost of production.

§ 10.21 Updating cost data and other information.

When a claim for the exemption is predicated on estimated cost data furnished either in advance of or at the time of entry, this fact should be clearly stated in writing at the time of entry, and suspension of liquidation may be requested by the importer or his agent pending the furnishing of actual cost data. Actual cost data must be submitted as soon as accounting procedures permit. To insure that information used for Customs purposes is reasonably current, the importer shall ordinarily be required to furnish updated cost and assembly data at least every six months, regardless of whether he considers that significant changes have occurred. The 6-month period for the submission of updated cost or other data may be extended by the district director if such extension is appropriate for the type of merchandise involved, or because of the accounting period normally used in the trade, or because of other relevant circumstances. **[TDs 73-27, 75-230.]**

§ 10.22 Marking.

Assembled articles entitled to the exemption are considered products of the country of assembly for the purposes of the country of origin marking requirements of section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304). If an imported assembled article is made entirely of American-made materials, the United States origin of the material may be disclosed by using a legend such as "Assembled in ——— from material of U.S. origin," or a similar phrase. (Sec. 304, 46 Stat. 687, as amended (19 U.S.C. 1304)) **[TDs 73-27, 75-230.]**

§ 10.23 Standards, quotas, and visas.

All requirements and restrictions applicable to imported merchandise, such as labeling, radiation standards, flame-retarding properties, quotas, and visas, apply to assembled articles eligible for the exemption in the same manner as they would apply to all other imported merchandise. **[TDs 73-27, 75-230.]**

§ 10.24 Documentation.

(a) *Documents required.* The following documents shall be filed in connection with the entry of assembled articles claimed to be subject to the exemption under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202). **[TDs 73-27, 75-230.]**

(1) *Declaration by the assembler.* A declaration by the person who performed the assembly operations abroad shall be filed in substantially the following form:

I, ——————, declare that to the best of my knowledge and belief the —————— were assembled in whole or in part from fabricated components listed and described below, which are products of the United States:

Marks of identification, numbers	Description of component	Quantity	Unit value at time and place of export from United States[1]	Port and date of export from United States	Name and address of manufacturer

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[1] In accordance with Headnote 3, part 1B, schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202).

Description of the operations performed abroad on the exported components (in sufficient detail to enable Customs officers to determine whether the operations performed are within the preview of item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202) (attach supplemental sheet if more space is required)):

Date Signature

Address Capacity

(2) *Endorsement by the importer.* An endorsement, in substantially the following form, shall be signed by the importer:

> I declare that to the best of my knowledge and belief the (above), (attached) declaration, and any other information submitted herewith, or otherwise supplied or referred to, is correct in every respect and there has been compliance with all pertinent headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202).

Date Signature

Address Capacity

(b) *Revision of format.* In specific cases, the district director may revise the format of either of the documents specified in paragraph (a) of this section and may make such changes as conditions warrant, provided the data and information required to be supplied in these documents are presented. For example, if the components were furnished by the importer, the information on components may be supplied as part of the importer's endorsement, rather than as part of the assembler's declaration.

(c) *Reference to previously filed documents.* In lieu of filing duplicate lists of components and descriptions of assembly operations with each entry, the documents specified in paragraph (a) of this section may refer to assembly descriptions and lists of components previously filed with and approved by the district director, or to records showing costs, names of manufacturers, and other necessary data on components, provided the importer has arranged with the district director to maintain such records and keep them available for examination by authorized Customs officers.

(d) *Waiver of specific details for each entry.* There are cases where large quantities of United States components are purchased from various sources or exported at various ports and dates on a continuing basis, so that it is impractical to identify the exact source, port and date of export for each particular component included in an entry of merchandise claimed to be subject to the exemption under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202). In these cases, specific details such as the port and date of export and the name of the manufacturer of the United States components may be waived if the district director is satisfied that the importer and assembler have established reliable controls to insure that all components for which the exemption is claimed are in fact products of the United States. These controls shall include strict physical segregation of United States and foreign components, as well as records of United States components showing quantities, sources, costs, dates shipped abroad, and other necessary information. These records shall be maintained by the importer and assembler for 5 years from the date of the related entry in a manner so that they are readily available for audit, inspection, copying, reproduction, or other official use by authorized Customs officers. **[TD 79-154.]**

(e) *Waiver of documents.* When the district director is satisfied that unusual circumstances make the production of either or both of the documents specified in paragraph (a) of this section, or of any of the information set forth therein, impractical and is further satisfied that the requirements of item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), and related headnotes have been met, he may waive the production of such document(s) or information.

(f) *Unavailability of documents at time of entry.* If either or both of the documents specified in paragraph (a) of this section are not available at the time of entry, an appropriate bond for the production of the document(s) may be given pursuant to § § 113.41-113.46 and 141.66 of this chapter.

(g) *Responsibility of correctness.* Subject to the civil and criminal sanctions provided by law for false or fraudulent entries, the importer has the ultimate responsibility for supplying all information needed by the Customs Service to process an entry, and for the completeness and truthfulness of such information. If certain information cannot be supplied by the assembler, it must be provided by the importer.

§ § 10.25—10.30b [Reserved]

Free Entry—Articles for the Use of Foreign Military Personnel[1]

§ 10.30c [Reserved]

Temporary Importations Under Bond

§ 10.31 Entry; bond.

(a)(1) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under schedule 8, part 5C, Tariff Schedules of the United States (TSUS),[34] unless covered by an A.T.A. carnet as provided

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[1] 30 FR 11318, Sept. 3, 1965.

[34] "1. (a) The articles described in the provisions of this subpart, when not imported for sale or for sale on approval, may be admitted into the United States without the payment of duty, under bond for their exportation within 1 year from the date of importation, which period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial 1 year, shall not exceed a total of 3 years, except that (1) articles imported under item 864.75 shall be admitted under bond for their importation within 6 months from the date of importation and such 6-month period shall not be extended, and (2) in the case of professional equipment and tools of trade admitted into the United States under item 864.50 which have been seized (other than by seizure made at the suit of private persons), the requirement of reexportation shall be suspended for the duration of the seizure. For purposes of this headnote, an aircraft engine or propeller, or any part or accessory of either, imported under item 864.50, which is removed physically from the United States as part of an aircraft departing from the United States in international traffic shall be treated as exported.

"(b) For articles admitted into the United States under item 864.50, entry shall be made by the nonresident importing the articles or by an organization represented by the nonresident which is established under the laws of a foreign country or has its principal place of business in a foreign country.

"2. Merchandise may be admitted into the United States under item 864.05 only on conditions that—

"(a) such merchandise will not be processed into an article manufactured or produced in the United States if such article is—

(i) alcohol, distilled spirits, wine, beer, or any dilution or mixture of any or all of the foregoing;

[Footnote continued on next page]

in part 114 of this chapter, shall be made on Customs form 3461 or 7533, supported by the documentation required by section 142.3 of this chapter. However, when section 10.36 or section 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail in baggage, or by other means, may be used. When entry is made on Customs form 3461 or 7533, an entry summary, Customs form 7501, shall be filed within 10 days after time of entry, in accordance with subpart B, part 142 of this chapter.

(2) If Customs form 7501 is filed at time of entry, it shall serve as both the entry and entry summary, and Customs form 3461 or 7533 shall not be required. Customs form 7501 shall be in original only, except for entries under item 864.05, TSUS, which required a duplicate copy for statistical purposes. When articles are entered under an A.T.A. carnet, the importation voucher of the carnet shall serve as the entry.

(3) In addition to the data usually shown on a regular consumption entry summary, each temporary importation bond entry summary shall include:

(i) The TSUS item number under which entry is claimed,

(ii) A statement of the use to be made of the articles in sufficient detail to enable the district director to determine whether they are entitled to entry as claimed, and

(iii) A declaration that the articles are not to be put to any other use and that they are not imported for sale or sale on approval. **[CDs 107, 245. TDs 31999, 38806, 34273, 34374, 36330 (91), 36794, 37318, 43957, 45559, 46155, 47176, 47200, 47201, 48168(5), 48508, 48785, 48971, 49000, 49658, 49664, 49935, 51774, 52612, 53135, 53336, 53610, 53792, 54985, 54995, 55978, 66-39, 71-70, 69-146, 79-221.]**

(b) The district director of Customs, if he is satisfied as to the importer's identity and good faith, may admit a vehicle or craft brought in by a nonresident to take part in a race or other specific contest for which no money purse is awarded, under the provisions of item 864.35, Tariff Schedules of the United States, without formal entry or security for exportation. If at the time of arrival it appears that the article is likely to remain in the United States beyond 90 days, formal entry and bond shall be taken. **[TD 53610, 55978, 70-89.]**

(c) When any article has been admitted without formal entry or security for exportation and the importer thereafter desires to prolong his stay beyond 90 days, an entry covering the article and security for its exportation shall be accepted at any port where the article may be presented for entry. The time during which the imported article may remain in the United States under the entry shall be computed from the date of its original arrival in the United States. The estimated duties for the purpose of fixing the amount of any bond required by paragraph (f) of this section shall be the estimated duties which would have been required to be deposited had the article been entered under an ordinary consumption entry on the date of the original arrival. **[TDs 53610, 55915, 70-89.]**

(d) [Reserved]

(e) The entry or invoice shall: (1) Describe each article in detail; (2) set forth the value of each article; and (3) set forth any marks or numbers thereon or other distinguishing features thereof. In the case of a vehicle, aircraft, or pleasure boat entered under item 864.05 of the Tariff Schedules of the United States and § 10.36a, the registration number, and engine or motor number, and the body number (if available) shall also be shown on the entry. Examination of the imported articles shall be made whenever the circumstances warrant, and occasionally in any event to an exte[illegible]n will enable the Customs officer

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[Footnote continued from last page]

(ii) a perfume or other commodity containing ethyl alcohol (whether or not such alcohol is denatured), or

(iii) a product of wheat; and

"(b) if any processing of such merchandise results in an article (other than an article described in (a) of this headnote) manufactured or produced in the United States—

(i) a complete accounting will be made to the Customs Service for all articles, wastes, and irrecoverable losses resulting from such processing, and

(ii) all articles and valuable wastes resulting from such processing will be exported or destroyed under customs supervision within the bonded period.

"3. Upon satisfactory proof that any article admitted under item 864.30 has been destroyed because of its use for any purpose provided for therein, the obligation under the bond to export such article shall be treated as satisfied.

"4. Collectors of customs may defer the exaction of a bond for not to exceed 90 days after the date of importation for vehicles and craft entered under item 864.35 to take part in races or other specific contests for other than money purses, but unless any such vehicle or craft is exported or the bond is given within the period of such deferment, such vehicle or craft shall be subject to forfeiture.

"5. Articles may be admitted under item 864.75 only on condition that the Secretary of the Treasury shall have found that the foreign country from which the articles were imported allows, or will allow, substantially reciprocal privileges in respect of similar imports to such country from the United States; and if the Secretary finds that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges of item 864.75 shall not apply thereafter in respect of imports from such foreign country.

"Item 864.05 Articles to be repaired, altered, or processed (including processes which result in articles manufactured or produced in the United States) * * *."

"Item 864.10 Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishments * * *."

"Item 864.15 Articles imported by illustrators and photographers for use solely as models in their own establishments, in the illustrating of catalogues, pamphlets, or advertising matter * * *."

"Item 864.20 Samples solely for use in taking orders for merchandise * * *."

"Item 864.25 Articles solely for examination with a view to reproduction, or for such examination and reproduction (except photoengraved printing plates for examination and reproduction); and motion-picture advertising films * * *."

"Item 864.30 Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blue-prints, photographs, and similar articles for use in connection with experiments or for study * * *."

"Item 864.35 Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents for the purpose of taking part in races or other specific contests * * *."

"Item 864.40, Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency * * *."

"Item 864.45 Containers for compressed gases, filled or empty, and containers or other articles in use for covering or holding merchandise (including personal or household effects) during transportation and suitable for reuse for that purpose * * *."

"Item 864.50 Professional equipment, tools of trade, repair components for equipment or tools admitted under this item, and camping equipment; all the foregoing imported by or for nonresidents sojourning temporarily in the United States and for the use of such nonresidents * * *."

"Item 864.55 Articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export * * *."

"Item 864.60 Animals and poultry brought into the United States for the purpose of breeding, exhibition, or competition for prizes, and the usual equipment therefor * * *."

"Item 864.65 Theatrical scenery, properties, and apparel brought into the United States by proprietors or managers of theatrical exhibitions arriving from abroad for temporary use by them in such exhibitions * * *."

"Item 864.70 Paintings, pastels, drawings, sketches, engravings, etchings, lithographs, woodcuts, photographic pictures, and philosophical and scientific apparatus brought into the United States by professional artists, lecturers, or scientists arriving from abroad for use by them for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States * * *."

"Item 864.75 Automobiles, automobile chassis, automobile bodies, cutaway portions of any of the foregoing, and parts for any of the foregoing, finished, unfinished, or cutaway, when intended solely for show purposes * * *" (Schedule 8, part 5C, Tariff Schedules of the United States.)

to determine that the importation is in agreement with the invoice or entry as to identity and quantity and for the purpose of accepting the entry under the applicable provisions of schedule 8, part 5C, Tariff Schedules of the United States. No examination for the purpose of appraisement and no appraisement of the articles shall be made. **[TDs 49658, 50075 (4), 50400, 52430, 55915, 56066, 66-39.]**

(f) With the exceptions stated herein, a bond shall be given on Customs Form 7563 in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the district director shall state in writing to the entrant is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry. In the case of samples solely for use in taking orders entered under item 864.20, Tariff Schedules of the United States, motion-picture advertising films entered under item 864.25, and professional equipment, tools of trade and repair components for such equipment or tools entered under item 864.50, the bond required to be given shall be in an amount equal to 110 percent of the estimated duties determined at the time of entry. A term bond on Customs Form 7563-A, a general term bond on Customs Form 7595, or, in appropriate cases, a carnet under Part 114 of this chapter, may be given in lieu of the bond on Customs Form 7563. Cash deposits in the amount of the bond may be accepted in lieu of sureties. When the articles are entered under item 864.05, 864.20, or 864.50, Tariff Schedules of the United States, without formal entry, as provided for in §§ 10.36 and 10.36a, or the amount of the bond taken under any item of schedule 8, part 5C, Tariff Schedules of the United States, is less than $25, the bond shall be without surety or cash deposit, and the bond shall be modified to so indicate.

(g) Claim for free entry under schedule 8, part 5C, Tariff Schedules of the United States may be made for articles of any character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from Customs custody, or even though released from Customs custody if it is established that the original entry was made on the basis of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended, and was brought to the attention of the Customs Service within the time limits of that section. If an entry is so amended, the bond period shall be computed from the date of importation. In the case of articles covered by an informal mail entry, such a claim may be made within a reasonable time either before or after the articles have been released from Customs custody.

(h) After the entry and bond have been accepted, the articles may be released to the importer. The entry shall not be liquidated as the transaction does not involve liquidated duties.

§ 10.33 Theatrical effects.[36]

(a) In connection with the entry under bond of theatrical scenery, property, and apparel, a declaration of the manager or proprietor shall be required on Customs Form 3325 in addition to the requirements of § 10.31.

(b) Animals imported for use or exhibition in theaters or menageries may be classified as theatrical properties.

(c) The term "theatrical scenery, properties, and apparel" shall not be construed to include motion-picture films.

§ 10.34 Articles brought by professional artists, lecturers, or scientists.

In connection with the entry of works of art and other articles provided for in item 864.70, Tariff Schedules of the United States, brought in by professional artists, lecturers, or scientists, a declaration on Customs Form 3325 shall be required in addition to the requirements of § 10.31.

§ 10.35 Models of women's wearing apparel.

(a) Models of women's wearing apparel admitted under item 864.10, Tariff Schedules of the United States, shall not be removed from the importer's establishment for reproducing, copying, painting, sketching, or any other use by others, nor be used in the importer's establishment for such purposes except by the importer or his employees.

(b) The importer shall file in connection with the entry a declaration stating, in addition to his name and business address, that he is a manufacturer; that the articles are imported solely as models for use in his own establishment and will be so used; that they are not imported for sale or for sale on approval; and that they will not be removed from such establishment for reproducing, copying, painting, or sketching by others, nor used in his establishment for such purposes except by him or his employees.

(c) Invoices covering models of women's wearing apparel entered under item 864.10 or 864.25 shall state the kind and color of the principal material from which the apparel is made, and shall contain a description of the lining and the trimming, stating whether composed of fur, lace, embroidery, or other material. Invoices shall also contain a statement as to how the trimming is applied, that is, whether on the cuffs, collar, sleeves, or elsewhere, and the total value of each completed garment or article.

(d) Models of women's wearing apparel entered under item 864.10 or 864.25 shall be marked for identification by means of a cord and lead or tin seal, the cord to be run through the article and all trimming thereon, where necessary, in such manner as to prevent the removal of the cord and seal without cutting the cord or injuring the article. A tag shall be attached to the cord, upon which shall be stated the name of the port at which the article was imported, the entry number, name of importer, and the number of the bond.

§ 10.36 Commercial travelers' samples; professional equipment and tools of trade; theatrical effects and other articles.

(a) Samples accompanying a commercial traveler who presents an adequate descriptive list or a special Customs invoice, and professional equipment, tools of trade, and repair components for such equipment or tools imported in his baggage for his own use by a nonresident sojourning temporarily in the United States may be entered on the importer's baggage declaration in lieu of formal entry and examination and may be passed under item 864.20 or item 864.50, Tariff Schedules of the United States, at the place of arrival in the same manner as other passengers' baggage. The examination may be made by an inspector who is qualified, in the opinion of the district director, to determine the amount of the bond required by § 10.31(c) to be filed in support of the entry. If the articles are a commercial traveler's samples and exceed $500 in value, a special Customs invoice or a descriptive list shall be furnished.

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[36] For regulations relating to return without formal entry of theatrical effects taken from the United States, see § 10.68.

(b) When the proprietor or manager of a theatrical exhibition arriving from abroad who has entered his scenery, properties, and apparel under item 864.65, Tariff Schedules of the United States, contemplates side trips to a contiguous country with the exhibition within the period of the bond, including any lawful extension, a copy of the entry covering the effects and a copy of a descriptive list of such effects or invoice furnished by him may be certified by the examining officer and returned to the proprietor or manager for use in registering the effects with the Customs officers at the port of exit, and in clearing them through Customs on his return. Cancellation of the bonds shall be effected by exportation in accordance with the provisions of § 10.38 at the time the theatrical effects are finally taken out of the United States before the expiration of the bond period, including any lawful extension. Similar treatment may be accorded articles entered under other items in schedule 8, part 5C, Tariff Schedules of the United States, upon approval by Headquarters, U.S. Customs Service.

(c) When a commercial traveler contemplates side trips to a contiguous country within the period of the bond, including any lawful extension, a copy of his baggage declaration and a copy of the descriptive list or special Customs invoice furnished by him may be certified by the examining officer and returned to the traveler for use in registering the samples with Customs officers at the port of exit, and in clearing them through Customs upon his return. Cancellation of the bond shall be effected by exportation in accordance with the provisions of § 10.38 at the time the samples are finally taken out of the United States before the expiration of the bond period, including any lawful extension.

(d) The privilege of clearance of commercial travelers' samples or professional equipment, tools of trade, and repair components for such equipment or tools imported for his own use by a nonresident sojourning temporarily in the United States on a baggage declaration under bond without surety or cash deposit shall not be accorded to a commercial traveler or such nonresident who, through fraud or culpable negligence, has failed to comply with the provisions of such a bond in connection with a prior arrival.

Such a commercial traveler or nonresident shall be required to file a formal entry under item 864.20 or item 864.50, Tariff Schedules of the United States with a bond supported by a surety or cash deposit in lieu of surety. (Sec. 498, 46 Stat. 728, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1498; Sch. 8, pt. 5C, Tariff Schedules of the United States)

§ 10.36a Vehicles, pleasure boats and aircraft brought in for repair or alteration.

(a) A vehicle (such as an automobile, truck, bus, motorcycle, tractor, trailer), pleasure boat, or aircraft brought into the United States by an operator of such vehicle, pleasure boat, or aircraft [36a] for repair or alteration (as defined in paragraph (a) of § 10.8[36b]) may be entered on the operator's baggage declaration, in lieu of formal entry and examination and may be passed under item 864.05, Tariff Schedules of the United States, at the place of arrival in the same manner as passengers' baggage. The temporary importation bond, as prescribed in § 10.31 (f), given to support such entry shall be without surety or cash deposit. The examination may be made by an inspector who is qualified to determine the amount of such bond to be filed in support of the entry. The privilege accorded by this paragraph shall not apply when two or more vehicles, pleasure boats, or aircraft are to be entered by the same importer under item 864.05 at the same time. In that event, the importer must file a formal entry supported by bond with surety or cash deposit in lieu of surety. **[TD 66-39.]**

(b) Each vehicle, pleasure boat, or aircraft to which paragraph (a) of this section is applicable shall be identified on the operator's baggage declaration, which must include the data prescribed in paragraphs (a) and (e) of § 10.31.

(c) Exportation shall be effected in accordance with the provisions of § 10.38.

(d) The privilege of clearance of a vehicle, pleasure boat, or aircraft brought in by the operator of such vehicle, pleasure boat, or aircraft, for repair or alteration on his baggage declaration under bond without surety or cash deposit shall not be granted to an individual who has failed to comply with the provisions of such a bond in connection with any prior arrival. Such individual shall be required to file a formal entry under item 864.05, Tariff Schedules of the United States, with a bond supported by a surety or cash deposit in lieu of surety. (77A Stat. 13, 14, 422; 19 U.S.C. 1202 (Gen. head-notes 10, 11, Sch. 8, Pt. 5C, head-note 1))

§ 10.37 Extension of bonds.

A bond given to assure the exportation of a temporary importation entered under schedule 8, part 5C, Tariff Schedules of the United States, may be extended for not more than two further periods of 1 year each, or such shorter period as may be appropriate, by the district director of Customs at the port where the entry was filed, upon written application to such district director on Customs Form 3173, provided the articles have not been exported or duly destroyed before the receipt of the application by the district director, and provided liquidated damages have not been assessed under the bond before such receipt. No extension of the period for which a carnet is valid shall be granted. **[TDs 51868, 53336, 55978, 69-146.]**

[36a] When the vehicle, aircraft, or pleasure boat to be entered is being towed by or transported on another vehicle, the operator of the towing or transporting vehicle may make the entry for the vehicle, aircraft, or pleasure boat to be repaired or altered.

[36b] The term "repairs or alterations" is defined in paragraph (a), § 10.8, as meaning "restoration, change, addition, renovation, cleaning, or other treatment which does not destroy the identity of the article exported or create a new or different article."

§ 10.38 Exportation.

(a) Articles entered under a temporary importation bond may be exported at the port of entry or at another port. An application on Customs Form 3495 shall be filed in duplicate with the district director of Customs a sufficient length of time in advance of exportation to permit the examination and identification of the articles if circumstances warrant such action and, in such event, the applicant shall be notified on a copy of Customs Form 3495 where the articles are to be sent for identification. If a carnet was used for entry purposes, the reexportation voucher of the carnet shall be filed, in addition to Customs Form 3495, and the carnet shall be presented for certification. **[TDs 39073, 41884, 42052, 43751, 45559, 53336, 55915, 69–146.]**

(b) All expenses in connection with the delivery of the articles for examination, the cording and sealing of such articles, and their transfer for exportation shall be paid by the parties in interest.

(c) If exportation is to be made at a port other than the one at which the merchandise was entered, the application on Customs Form 3495 shall be filed in triplicate. There shall also be filed with the application a certified copy of the import entry or a certified copy of the invoice used on entry. **[TDs 51868, 69–146.]**

(d) If the goods are examined at one port and are to be exported from another port, they shall be forwarded to the port of exportation under a transportation and exportation entry. In such cases Customs Form 3495 shall be filed in triplicate. Articles entered under a carnet shall not be examined elsewhere than at the port from which they are to be exported. **[TD 69–146.]**

(e) If the articles are to be exported by mail or parcel post, the package containing the articles must be mailed under Customs supervision after examination. Waiver of the right to withdraw the package from the mails shall be endorsed on each package to be so exported and signed by the exporter. **[TDs 54038, 55915.]**

(f) Whenever the circumstances warrant, and occasionally in any event, district directors shall cause the fact of exportation to be verified by the Office of Investigations in harmony with the procedures provided for in § § 18.7 and 22.43 of this chapter. **[TD 55915.]**

(g) Upon the presentation of satisfactory evidence to the district director at the port at which samples were entered under item 864.20, Tariff Schedules of the United States, or professional equipment or tools of trade were entered under item 864.50, that such articles cannot be exported for the reason that they have been seized (other than by seizure at the suit of private persons), the requirement of exportation shall be suspended for the duration of the seizure. The articles shall be exported promptly after release from seizure. **[TD 69–146.]**

§ 10.39 Cancellation of bonds.

(a) Bonds taken pursuant to schedule 8, part 5C, Tariff Schedules of the United States, may be canceled in the manner prescribed in § 113.55 of this chapter. A completed reexportation counterfoil on a carnet establishes that the articles covered by the carnet have been exported, and no claim shall be brought against the guaranteeing association under the carnet for failure to export, except under the provisions of § 114.26 of this chapter. In the case of articles entered under item 864.30, Tariff Schedules of the United States, which are destroyed because of their use for the purposes of importation, the bond shall not be canceled unless there is submitted to the district director a certificate of the importer that the articles were destroyed during the course of a specifically described use, and the district director is satisfied that the articles were so destroyed as articles of commerce within the bond period (including any lawful extension). Bonds covering articles entered under other provisions of law shall not be canceled upon proof of destruction, except as provided for in paragraph (c) of this section, unless the articles are destroyed under Customs supervision in accordance with section 557, Tariff Act of 1930, as amended, and § 158.43 of this chapter. **[TDs 40155, 40953, 43642, 45559, 48508, 53268, 53336, 53399, 55978, 69–146, 74–227.]**

(b) Where exportation has been made at a port other than the port of entry, the bond may be canceled upon the certificate of lading received from the port of exportation, showing that such exportation was made within the bond period. In addition, the district director may require the production of a landing certificate signed by a revenue officer of the country to which the merchandise is exported. **[TD 40155.]**

(c) When articles entered temporarily, free of duty under bond are destroyed within the bond period by death, accidental fire, or other casualty, petition for relief from liability under the bond shall be made to the United States Customs Service. The petition shall be accompanied by a statement of the importer, or other person having knowledge of the facts, setting forth the circumstances of the destruction of the articles. **[TDs 33049, 33202, 49658, 53268, 75–36.]**

(d) (1) If any article entered under schedule 8, part 5C, Tariff Schedules of the United States, except those entered under a carnet, has not been exported or destroyed in accordance with the regulations in this part within the bond period (including any lawful extension), the district director shall make a demand in writing under the bond for the payment of liquidated damages equal to the entire amount of the bond. If the entry covering the articles is charged against a term bond, the demand shall be limited to an amount equal to double the estimated duties applicable to such entry, unless a lower amount is prescribed by § 10.31(f). The demand shall include a statement that a written petition for relief from the payment of the full liquidated damages may be filed with the district director within 60 days after the date of the demand. **[CIE 608/58. TDs 51868, 52033, 53336, 55915, 55978, 69–146, 75–36.]**

(2) If articles entered under a carnet have not been exported or destroyed in accordance with the regulations in this part within the carnet period, the district director shall promptly after expiration of that period make demand in writing upon the importer and guaranteeing association for the payment of liquidated damages in the amount of 110 percent of the estimated duties on the articles not exported or destroyed. The guaranteeing association shall have a period of 6 months from the date of claim in which to furnish proof of the exportation or destruction of the articles under conditions set forth in the Convention under which the carnet is issued. If such proof is not furnished within the 6–month period, the guaranteeing asso-

ciation shall forthwith pay the liquidated damages provided for above. The payment shall be refunded if the guaranteeing association within 3 months from the date of payment furnishes the proof referred to above. No claim for payment under a carnet covering a temporary importation may be made against the guaranteeing association more than 1 year after the expiration of the period for which the carnet was valid.

(3) *Demand for return to Customs custody.* When the demand for return to Customs custody is made in the case of merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), liquidated damages in an amount equal to double the estimated duties on the merchandise not returned shall be demanded, except that in the case of samples solely for use in taking orders, motion-picture advertising films, professional equipment, tools of trade, and repair components for professional equipment and tools of trade, the liquidated damages demanded shall be in an amount equal to 110 percent of the estimated duties. **[TD 74-227.]**

(e) If there has been default with respect to all the articles covered by the bond and a written petition for relief is timely filed as provided in part 172 of this chapter, it shall be transmitted to Headquarters, U.S. Customs Service with a full report of the facts, unless it is allowed by the district director in whole or in part in accordance with this regulation. If the full amount of liquidated damages demanded does not exceed $50,000 and the district director is satisfied that the importation was properly entered under schedule 8, part 5C, and that there was no intent to defraud the revenue or delay the payment of duty, the district director may cancel the liability for the payment of liquidated damages as follows: **[TDs 52033, 52454, 53336, 53919, 55978, 70-249, 73-308, 75-36.]**

(1) If evidence is furnished which satisfies the district director that the article would have been entitled to free entry as domestic products exported and returned had the evidence been furnished at the time of entry, without the collection of liquidated damages. **[TD 70-249.]**

(2) If the article has been exported or destroyed under Customs supervision but not within the bond period, upon the payment of such lesser amount as the district director may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the district director is satisfied that the delay in exportation or destruction was for the benefit of the United States or was occasioned wholly by circumstances reasonably beyond the control of the parties concerned and which could not have been anticipated by a reasonably prudent person. **[TDs 52454, 70-249.]**

(3) If the article was exported or destroyed within the bond period but not under Customs supervision and satisfactory documentary evidence of actual exportation, such as a foreign landing certificate, or of death or other complete destruction, such as a veterinarian's certificate or certificates of two disinterested witnesses, are furnished together with a complete explanation by the applicant of the failure to obtain Customs supervision, upon the payment of such lesser amount as the district director may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the district director is satisfied that the merchandise was destroyed under circumstances which precluded any arrangement to obtain Customs supervision. Satisfactory documentary evidence of exportation, in the case of carnets, would include the particulars regarding importation or reimportation entered in the carnet by Customs authorities of another contracting party, or a certificate with respect to importation or reimportation issued by those authorities, based on the particulars shown on a voucher which was detached from the carnet on importation or reimportation into their territory, provided it is shown that the importation or reimportation took place after the exportation which it is intended to establish. **[TDs 52454, 53268, 69-146, 70-249.]**

(4) Upon the payment of an amount equal to double the duty which would have accrued on the articles had they been entered under an ordinary consumption entry, or equal to 110 percent of such duties where that percentage is prescribed in § 10.31(f), if such amount is determined to be less than the full amount of the bond. **[TDs 52454, 53336, 55915, 71-70.]**

(f) If there has been compliance with the terms of the bond with respect to part of but not all the articles covered thereby and a written petition for relief is filed as provided in Part 172 of this chapter, and if that part of the liability for liquidated damages which represents double the duty or 110 percent of the duty, as required under § 10.31(f), on the articles in respect of which there has been a default does not exceed $50,000, the district director may cancel the total liability for payment of liquidated damages in any amount upon the payment of an amount equal to double the duty or 110 percent of the duty, as appropriate, on the articles in respect of which the default occurred, or, under the circumstances enumerated in subparagraph (1), (2), or (3) of paragraph (e) of this section, upon payment of such lesser amount as the district director may deem appropriate, provided the district director is satisfied that the importation was properly entered under schedule 8, part 5C, and that there was no intent to defraud the revenue or delay the payment of duty. **[TDs 52454, 52721, 53336, 53919, 55915, 55978, 70-249, 71-70, 73-308, 75-36.]**

(g) If the petitioner is not satisfied with the district director's action under this section and submits a supplemental petition, both the original and the supplemental petitions shall be transmitted to the regional commissioner of Customs with a full report on the case. **[TDs 52033, 52454, 52721, 75-36.]**

§ 10.40 Refund of cash deposits.

(a) When a cash deposit is made in lieu of surety, it shall be refunded to the person in whose name the entry is made upon exportation in compliance with § 10.38. **[TDs 49658, 53336, 53399.]**

(b) If any article entered under schedule 8, part 5C, Tariff Schedules of the United States, is not exported or destroyed within the bond period (including any lawful extension), the district director shall notify the importer in writing that the entire cash deposit will be transferred to the regular account as liquidated damages unless a written application for relief from the payment of the full liquidated damages is filed with the district director within 60 days after the date of the notice. If such an application is timely filed, the transfer of the cash deposit to the regular account as liquidated damages shall be deferred pending the decision of the Headquarters, U.S. Customs Service or, in appropriate cases, the district director on the application. **[CIE 747/38. TDs 46628, 47042, 48508, 50000, 51868, 53336, 53399, 55978.]**

International Traffic[37]

§ 10.41 Instruments; exceptions.

(a) Locomotives and other railroad equipment, trucks, buses, taxicabs, and other vehicles used in international traffic shall be subject to the treatment provided for in Part 123 of this chapter. **[TDs 52259, 53336, 53505, 69-146, 70-121.]**

(b) [Reserved]

(c) Foreign-owned aircraft arriving in the United States shall be subject to the treatment provided for in Part 6 of this chapter, unless entered under the provisions of § 10.31 or of paragraph (d) of this section.

(d) Any foreign-owned vehicle, aircraft, or undocumented boat brought into the United States for the purpose of carrying merchandise or passengers between points in the United States for hire or as an element of a commercial transaction, except as stated in the parenthetical matter in paragraph (b) of this section, is subject to treatment as an importation of merchandise from a foreign country and a regular entry therefor shall be made. The use of any such vehicle, aircraft, or boat without a proper entry having been made may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). **[TDs 49658, 51868, 52259, 79-160.]**

(e) [Reserved]

(f) Material for the maintenance or repair of international cables under the high seas, if requiring storage in special tanks for preservation, may be placed in tanks specially bonded for the purpose and withdrawn therefrom for high-seas installation without the payment of duty and without limitation of the storage period to the usual 3-year warehousing period. International cables laid under the territorial waters of the United States but not brought on shore in the United States shall be admitted without entry or the payment of duty. With respect to international cables laid under the territorial waters of the United States but brought on shore in the United States, only that part of the cable in the United States between the point of entry into the territorial waters of the United States and the first point of support on land in the United States shall be admitted without the payment of duty. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

(a)(1) Lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic are hereby designated as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. The Commissioner of Customs is authorized to designate as instruments of international traffic, in decisions to be published in the weekly Customs Bulletin, such additional articles or classes of articles as he shall find should be so designated. Such instruments may be released without entry or the payment of duty, subject to the provisions of this section. **[TDs 55078, 55981, 55978, 69-146, 72-149, 72-335, 73-48.]**

(2) Repair components for a particular container of foreign production which is an instrument of international traffic may be entered, or withdrawn from warehouse, for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files therewith his declaration that the repair component was imported to be used in the repair of a particular container of foreign production which is an instrument of international traffic, and the district director of Customs is satisfied that the importer of the repair component had the declared intention at the time of imation. Liquidation of the entry covering the repair component shall be suspended until proof of use is furnished or the time allowed for the production thereof has expired. Upon satisfactory proof of the use of the repair component, the entry shall be liquidated free of duty. When such proof is not filed within 3 years from the date of entry, the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.[38] **[TD 71-139.]**

(3) As used in this section, "instruments of international traffic" includes the normal accessories and equipment imported with any such instrument which is a "container" as defined in Article 1 of the Customs Convention on Containers.[38a]

(b) The reexportation of a container, as defined in Article 1 of the Customs Convention on Containers, which has become badly damaged, shall not be required in the case of a duly authenticated accident if the container (1) is subjected to applicable import duties and import taxes, or (2) is abandoned free of all expense to the Government or destroyed under Customs supervision at the expense of the parties concerned, following the procedure outlined in § 158.43(c) of this chapter. Any salvaged parts and materials shall be subjected to applicable import duties and import taxes. Replaced parts which are not reexported shall be subjected to import duties and import taxes except where abandoned free of expense to the Government or destroyed under Customs supervision at the expense of the parties concerned. **[TD 69-146.]**

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[37] "(a) Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be granted the customary exceptions from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury." (Sec. 322, Tariff Act of 1930, as amended; 19 U.S.C. 1322)

[38] "Substantial containers and holders, if products of the United States (including shooks and staves of United States production when returned as boxes or barrels containing merchandise), or if of foreign production and previously imported and duty (if any) thereon paid, or if of a class specified by the Secretary of the Treasury as instruments of international traffic, and repair components for a particular container of foreign production which is an instrument of international traffic * * * Free" (Item 808.00, Tariff Schedules of the United States.)

[38a] "* * * The term 'container' shall mean an article of transport equipment (lift-van, movable tank or other similar structure):

"(i) Of a permanent character and accordingly strong enough to be suitable for repeated use;

"(ii) Specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

"(iii) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;

"(iv) So designed to be easy to fill and empty; and

"(v) Having an internal volume of one cubic metre or more and shall include the normal accessories and equipment of the container, when imported with the container; the term 'container' includes neither vehicles nor conventional packing; * * *." (Article 1, Customs Convention on Containers.)

(c) The instruments of international traffic designated in paragraph (a) of this section may be released in accordance with the provisions of that paragraph only after the applicant for such release has filed a bond on Customs Form 7587. The required application may be filed at the port of arrival or at a subsequent port to which an instrument shall have been transported in bond or to which a container shall have been moved under cover of a TIR carnet (see Part 114 of this chapter) showing the characteristics and value of the container on the Goods Manifest of the carnet. If the container is listed on the Goods Manifest of the carnet, the application may be filed at the port of arrival or at the subsequent port. If the container is not listed on the Goods Manifest, the application shall be filed at the port of arrival. The fact of approval and discontinuance of bonds on Customs Form 7587 will be published in the weekly Customs Bulletin, as provided for in § 113.14(p) of this chapter. When the application is filed at a port other than the port at which the bond, Customs Form 7587, is on file, the following procedure applies: **[TDs 66-29, 71-70, 74-227.]**

(1) When the application is filed before the fact of approval of the applicant's bond has been published in the weekly Customs Bulletin, the applicant must submit with the application, or the Customs officer to whom the application is made must obtain, evidence that a current bond is on file at another port. That evidence may consist of a certrified copy of the bond, or any other evidence which will satisfy the Customs officer to whom the application is made that a current bond is on file at another port.

(2) If the application is filed after the fact of approval of the applicant's bond has been published in the weekly Customs Bulletin, a certified copy of that bond need not be filed at the port of release. Upon determination by the appropriate Customs officer that the fact of approval of the applicant's bond has been published in the weekly Customs Bulletin, and the bond has not been subsequently discontinued, the instruments of international traffic will be released as provided for in paragraph (a) of this section.

(3) Upon the request of the applicant, the appropriate Customs officer at the port at which the instruments of international traffic are to be released will determine whether or not the fact of approval of the applicant's bond has been published. If the approval has not been published, the Customs officer with whom the application has been filed will advise the applicant of the nature of the evidence required to establish the fact that a current bond is on file at another port.

(d) If an instrument of foreign origin, or of United States origin which has been increased in value or improved in condition by a process of manufacture or other means while abroad, is released under this section and is subsequently diverted to point-to-point local traffic within the United States, or is otherwise withdrawn in the United States from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duties. An instrument of United States origin which has not been increased in value or improved in condition by a process of manufacture or other means while abroad and which is released under this section shall not be subject to entry or the payment of duty if it is so diverted or otherwise withdrawn. **[TD 69-144.]**

(e) The person who filed the application for release under paragraph (a)(1) of this section shall promptly notify a district director at a port of entry in the United States as defined in section 401(k), Tariff Act of 1930, as amended, (1) that the container is to be abandoned or destroyed, as described in paragraph (b) of this section, or (2) that the instrument is the subject of a diversion or withdrawal as described in paragraph (d) of this section, in which event he shall file with the district director a consumption entry for the instrument and pay all import duties and import taxes due on the container or instrument at the rate or rates in effect and in its condition on the date of such diversion or withdrawal. **[TD 69-146.]**

(f) Except as provided in paragraph (i) of this section, no part of this section precludes (1) the use of an instrument in picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo, (2) such use of the instrument while en route from such point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, or (3) such use of a "container", as defined in Article 1 of the Customs Convention on Containers (see paragraph (a)(3) of this section), which arrived empty while en route between the port of arrival and a point where export cargo is to be loaded or from that point to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, provided such point-to-point traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic. Such use does not constitute a diversion to unpermitted point-to-point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section. **[TDs 69-216, 72-2.]**

(g) For failure promptly to report the diversion or withdrawal or promptly to make the required entry and pay the duties due, the applicant shall be liable for the payment of liquidated damages equal to the domestic value of the instrument established in accordance with section 606, Tariff Act of 1930.

(h) When an instrument of international traffic, as provided in paragraph (a) of this section, is returned to the United States and released in accordance with the provisions of that paragraph, any repairs which may have been made to the instrument while it was abroad are not subject to entry or the payment of duty whether the instrument is of foreign or domestic manufacture, whether it left the United States empty or loaded, and whether or not the repairs made abroad were in contemplation when the instrument left the United States. **[TD 69-146.]**

(i) Containers and other articles designated as instruments of international traffic in accordance with this section are nevertheless subject to the application of the coastwise laws of the United States, with particular reference to section 883, title 46, United States Code (see § 4.93 of this chapter). (Sec. 14, 67 Stat. 516, Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1202, 1322, 1623) **[TD 69-146.]**

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

(a) The holders and containers described in this section may be released without entry or the payment of duty, subject to the provisions of this section. **[TD 56542.]**

(b) In the case of serially numbered holders or containers of United States manufacture for which free clearance under item 800.00, Tariff Schedules of the United States, is claimed, the owner shall place thereon the following markings: (1) 800.00, unless the holder or container has permanently attached thereto the manufacturer's metal tag or plate showing, among other things, the name and address of the manufacturer who is located in the United States. (2) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container. (3) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 800.00 * * * Zenda * * * 2468.

(c) In the case of serially numbered holders or containers of foreign manufacture for which free clearance under the second provision in item 808.00, Tariff Schedules of the United States, is claimed, the owner shall place thereon the following markings: (1) 808.00. (2) The district and port code numbers of the port of entry, the entry number, and the last two digits of the fiscal year of entry covering the importation of the holders and containers on which duty was paid. (3) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container. (4) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 808.000 * * * 10-1-366-63 * * * Zenda * * * 2468.

(d) The prescribed markings shall be clear and conspicuous, that is, they shall appear on an exposed side of the holder or container in letters and figures of such size as to be readily discernible. The markings will be stricken out or removed when the holders or containers are taken out of service or when ownership is transferred, except that appropriate changes may be made if a new owner wishes to use the holders and containers under this procedure.

(e) The owner shall keep adequate records open to inspection by Customs officers, which shall show the current status of the serially numbered holders and containers in service and the disposition made of such holders and containers taken out of service.

(f) Nothing in this procedure shall be deemed to affect:

(1) The requirements for outward or inward manifesting of such holders or containers. The manifests will show for each holder or container its markings as provided for herein.

(2) The requirements of the Department of Commerce on exportation with respect to the filing of "Shipper's Export Declaration," Form 7525-V.

(3) The treatment of articles covered herein under the coastwise laws of the United States, with particular reference to section 883, Title 46, United States Code.

(g) If the holder or container and its contents are to move in bond or under cover of a TIR carnet (see Part 114 of this chapter) from the port of arrival intact, the holder or container shall appear on the inward foreign manifest so as to be related to the cargo contained therein and will be released under this procedure at a subsequent port. If the holder or container is to move in bond or under cover of a TIR carnet from the port of arrival not intact with its contents, the holder or container may appear on the inward foreign manifest separate from and not related to the cargo contained therein and will be released under this procedure at the port of arrival before it moves forward and will not appear on the in-bond document. **[TD 71-70.]**

(h) A bond in the form set forth below will be filed with the district director in the amount of $10,000. The bond will remain in force for a continuous period. The bond will be conditioned that upon a violation of the requirements of item 800.00 or 808.00, Tariff Schedules of the United States, or of these regulations, the owner will be liable for the payment of liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930.

Bond for the Control of Identified Shipping Containers

Know all men by these presents that[1]———————————————————————of————————————————, as principal, and[1]————————————, of————————————, and ————————————————, of ————————————, as sureties, are held and firmly bound unto the United States of America in the sum of ———————————————————————— dollars ($———), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ————————day of ——————, 19——.

Whereas, the above-bounden principal in the conduct of its domestic and international business expects to bring in and take out at a port or ports of entry, lift vans, cargo vans, shipping tanks, skids, pallets, and similar substantial holders or outer containers of United States or foreign manufacture, classifiable under item 800.00 or item 808.00, Tariff Schedules of the United States, and which have been serially numbered; and

Whereas, the above-bounden principal agrees that such holders or containers for which free release is claimed under item 800.00, Tariff Schedules of the United States, will not be advanced in value or improved in condition while they are abroad and that no drawback will be (or has been) claimed on their exportation, and that in the case of holders and containers for which free release under the second provision in item 808.00 is claimed the conditions required by that provision, including the initial duty payment, will be complied with; and

Whereas, the above-bounden principal agrees to mark such holders or containers in the manner prescribed by the United States Customs Service and to keep adequate records, open to inspection by customs officers, showing current status of the holders and containers in service and the disposition made of holders and containers taken out of service.

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[1] If the principal or surety is a corporation, the name of the State in which incorporated also should be shown.

Now, therefore, the condition of this obligation is such that—

(1) If the serially numbered lift vans, cargo vans, shipping tanks, skids, pallets, and other substantial holders or outer containers of United States manufacture for which free release is claimed under item 800.00, Tariff Schedules of the United States, are not advanced in value or improved in condition while they are abroad and no drawback is (or has been) claimed on their exportation, and if in the case of such holders or containers of foreign manufacture for which free release is claimed under the second provision of item 808.00, Tariff Schedules of the United States, the provisions of that item are complied with:

(2) If the above-bounden principal marks such holders or containers in the manner prescribed by the United States Customs Service and keeps adequate records, open to inspection by Customs officers, showing the current status of the holders and containers in service and the disposition made of holders and containers taken out of service;

(3) If the above-bounden principal strikes out or removes the markings from holders and containers when they are taken from service or when ownership is being transferred;

Then this obligation shall be void; otherwise it shall remain in full force and effect for the payment of liquidated damages in an amount equal to the domestic value of the article established in accordance with section 606, Tariff Act of 1930, not exceeding the sum named in this obligation, for any breach or breaches thereof.

Signed, sealed, and delivered in the presence of—

(Name) (Address)

(Name) (Address)
———————(seal)
(Principal)

(Name) (Address)

(Name) (Address)
———————(seal)
(Surety)

(Name) (Address)

(Name) (Address)
———————(seal)
(Surety)

(77A Stat. 14, 409, Sec. 623, 46 Stat. 759, as amended, 19 U.S.C. 1202 (Sch. 8, pt. 1C, hdnote. 3(a)), 1623)

Articles for Institutions

§ 10.43 Requirements on entry.

(a) The importer of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40, or 851.50, Tariff Schedules of the United States,[39] shall file, as evidence that such articles are entitled to free entry, a declaration on Customs Form 3321 of an executive officer or other authorized representative of the institution for the use of which the articles are imported. If this declaration is not filed at the time of entry, the importer may deposit the estimated duties payable when the articles are not free of duty or post bond for the subsequent production of the declaration. (See § 113.42 of the regulations of this chapter.) **[TDs 29995, 34980, 37938, 38893, 45369, 52990, 53087, 53336, 55132, 55758, 55978, 67-108, 71-139, 74-227.]**

(b) The district director may require a copy of the charter or other evidence of the character of the institution for the use of which the articles are imported. **[TDs 39998, 55132, 55978.]**

§ 10.44 Declaration of importer of record.

When the importer of record of articles claimed to be exempt from duty under item 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40 or 851.50, Tariff Schedules of the United States, is not the institution for the use of which the articles are imported, the importer of record shall file a declaration on Customs Form 3321 identifying the institution for the use of which the articles were imported. **[Abs. 45712. TDs 29995, 30525, 31861, 34980, 52111, 53087, 54513, 54814, 55758, 55978.]**

§ 10.46 Articles for the United States.

Pursuant to items 830.00 and 831.00, Tariff Schedules of the United States,[41] books, engravings, and other articles therein enumerated, which are imported by authority or for the use of the United States or for the use of the Library of Congress, shall be admitted free of duty upon compliance with §§ 10.43-10.45, or upon the written request of the head of the bureau or executive department concerned. **[TDs 38328, 52542, 54971, 55978, 67-108.]**

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[39] "Articles imported for the use of an institution established solely for religious purposes:

"Drawings, engravings, etchings, lithographs, woodcuts, sound recordings, recorded video tapes, and photographic and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 850.10, Tariff Schedules of the United States.)

"Regalia * * *." (Item 850.40, Tariff Schedules of the United States.)

"Articles imported for the use of an institution organized and operated for religious purposes, including cemeteries, schools, hospitals, orphanages, and similar nonprofit activities staffed and controlled by such institution: Altars, pulpits, communion tables, baptismal fonts, shrines, mosaics, iconostases, or parts, appurtenances, or adjuncts of any of the foregoing, whether to be physically joined thereto or not, and statuary (except granite or marble cemetery headstones, granite or marble grave markers, and granite or marble feature memorials, and except casts of plaster of Paris, or of compositions of paper or papier-mache) * * *." (Item 850.70, Tariff Schedules of the United States.)

"Articles imported for the use of any public library, and other public institutions, or any nonprofit institution established for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts:

"Drawings and plans, reproductions thereof, engravings, etchings, lithographs, woodcuts, globes, sound recordings, recorded video tapes, and photographic and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 851.10, Tariff Schedules of the United States.)

"Regalia * * *." (Item 851.30, Tariff Schedules of the United States.)

"Any textile machine or machinery, or part thereof, solely for the instruction of students * * *." (Item 851.40, Tariff Schedules of the United States.)

"Patterns and models exclusively for exhibition or educational use at any such institution * * *." (Item 851.50, Tariff Schedules of the United States.)

[41] "Articles for the use of any agency of the United States Government. Engravings, etchings, photographic prints, whether bound or unbound, recorded video tapes, and exposed photographic films (including motion-picture films) whether or not developed * * *." (Item 830.00, Tariff Schedules of the United States.)

"Articles for the Department of State: Sound recordings and recorded video tapes for use by it in the program authorized by the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431-1479) * * *." (Item 831.00, Tariff Schedules of the United States.)

§ 10.47 Scientific specimens.

There shall be filed in connection with an entry covering any articles claimed to be free under item 870.27, Tariff Schedules of the United States, a declaration of the importer of record stating that the subject articles are imported for public or private scientific collection for exhibition or other educational or scientific use as the case may be and are not for sale or other commercial use.[42] **[TD 67-108]**

Works of Art

§ 10.48 Engravings, drawings, sculptures, etc.

(a) Invoices covering works of art claimed to be free of duty under items 765.10, 765.15, 765.20, 765.25, Tariff Schedules of the United States,[43] shall show whether they are originals, replicas, reproductions, or copies, and also the name of the artist who produced them, unless upon examination the appraiser is satisfied that such statement is not necessary to a proper determination of the facts. **[TDs 38261, 39083, 41263, 42428, 55132, 55978, 67-108.]**

(b) The following evidence shall be filed in connection with the entry: **[TDs 36330 (Q. 63), 36725, 41263, 42428, 53399, 54118, 54183, 55132, 67-108, 70-59.]**

(1) A declaration in the following form by the artist who produced the article, showing whether it is original, or, in the case of sculpture, the original work or model or one of the first ten castings, replicas, or reproductions made from the original work or model; and in the case of etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes, that they were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks:

I, ————————————, do hereby declare that I am the producer of certain works of art, namely ———————————— covered by the annexed invoice dated ————: that any mosaics included in that invoice are originals; that any sculptures or statuary included in that invoice are the original works or models or 1 of the first 10 castings, replicas, or reproductions made from the sculptor's original work or model; and that any etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes included in that invoice were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks.

(2) A declaration of the seller or shipper giving the information specified in subparagraph (1) of this paragraph, if it be shown that it is impossible to produce the declaration of the artist. **[TD 54183.]**

(c) The declaration of the artist, or the declaration of the seller or shipper in lieu thereof, may be waived upon a satisfactory showing that it is impossible to produce either, but the declaration of the importer shall be required in all cases. **[CD 280. TDs 38089, 46258, 54183.]**

(d) Artists' proof etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes should bear the genuine signature or mark of the artist as evidence of their authenticity. In the absence of such a signature or mark, other evidence shall be required which will establish the authenticity of the work to the satisfaction of the district director. **[TDs 53319, 55132.]**

(e) In the case of articles claimed to be free under item 765.25, Tariff Schedules of the United States, the district director may require proof of the character of the article, including, when necessary, certificates from curators or other recognized authorities on art, that the imported article represents some school, kind, or medium of the free fine arts. **[TDs 55132, 55978.]**

§ 10.49 Articles for exhibition; requirements on entry.

(a) There shall be filed in connection with the entry of works of art and other articles claimed to be free of duty under schedule 8, part 5B, Tariff Schedules of the United States,[44] a declaration by a qualified officer of the institution on customs Form 3325, and a bond on customs Form 7565. Claim for free entry under schedule 8, part 5B may be made for articles of the character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from Customs custody. **[TDs 30164, 38082, 42917, 48690, 52488, 53336, 54118, 55132, 55978.]**

(b) The district director may require a copy of the charter or other evidence of the character of the institution for which the articles are imported, and may also require the production of the original of any order given by such society or institution to any importing agent or dealer for such articles. **[TDs 37034, 38992.]**

(c) Articles entered under item 862.10, Tariff Schedules of the United States may be transferred from one institution to another upon an application in writing in the case of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties to the bond assent in writing under seal or a new bond is filed. No entry or withdrawal shall be required for such a transfer. **[TDs 42917, 55978.]**

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[42] "Specimens of archeology, mineralogy, or natural history (including specimens of botany or zoology other than live zoological specimens) imported for any public or private scientific collection for exhibition or other educational or scientific use, and not for sale or other commercial use * * *." (Item 870.27, Tariff Schedules of the United States.)

[43] "Engravings, etchings, lithographs, woodcuts, and other prints, all the foregoing, unbound, and printed by hand from plates, stones, or blocks, etched, drawn, or engraved with hand tools * * *." (Item 765.10, Tariff Schedules of the United States.)

"Original sculptures and statuary (including the first 10 castings, replicas, or reproductions made from a sculptor's original work or model with or without a change in scale and whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed), all the foregoing made in any form from any material as the professional productions of sculptors only whether in round or in relief, and whether cut, carved, or otherwise wrought by hand or cast * * *." (Item 765.15, Tariff Schedules of the United States.)

"Original mosaics * * *." (Item 765.20, Tariff Schedules of the United States.)

"Original works of the free fine arts not provided for in the foregoing provisions of this part, in any media including, but not limited to, applied paper and other materials, manufactured or otherwise, such as are used on collages * * *." (Item 765.25, Tariff Schedules of the United States.)

[44] "1. The provisions of this subpart do not apply to articles intended for sale or for any purpose other than exhibition or erecting a public monument, nor do they apply to any institution or society engaged in or connected with business of a private or commercial character. Articles admitted under item 862.10 may be transferred from an organization specified therein to another such organization, or temporarily to a commercial gallery or other premises, for exhibition and not for sale.

"2. Prior to the release of articles under item 862.10 or 862.20, bond shall be given for the payment of lawful duties which may accrue should any of the articles be sold, transferred, or used contrary to the provisions of this subpart within 5 years after the date of entry hereunder, and such articles shall be subject at any time within such 5-year period to examination and inspection by customs officers. Surety on such bonds may be waived in the discretion of the Secretary of the Treasury.

"Item 862.10 Articles imported for exhibition by any institution or society established for the encouragement of agriculture, arts, education, or science, or for such exhibition by any State or for a municipal corporation * * *."

"Item 862.20 Articles imported by any institution, society, or State, or for a municipal corporation, for the purpose of erecting a public monument * * *." (Schedule 8, part 5B Tariff Schedules of the United States.)

(d) If any of the articles accorded free entry under schedule 8, part 5B shall be sold, offered or exposed for sale, transferred, or used in any manner contrary to the provisions of the regulations in this part, within 5 years after the date of entry under such part, the amount of the duties shall be collected immediately by the district director at the port of entry and deposited as duties. If the articles are exported or destroyed under Customs supervision within such 5-year period, the liability under the bond shall be treated as terminated. **[TDs 48508, 49722 (2), 53336, 55978.]**

§ 10.50 Works of American artists.

When works of art produced by American artists residing temporarily abroad are claimed to be free of duty under item 765.30, Tariff Schedules of the United States,[45] the importer shall file a declaration of the artist which shall be on or attached to the invoice and shall state: **[TDs 53399, 54056, 54118, 54183, 55978, 70-59.]**

I, ——————————, do hereby declare that I am a citizen of the United States of America, and by profession ————————— (Artist or sculptor); that my place of residence in the United States is——————————; that I departed from the United States of America on or about ——————————, 19—, to take up my temporary residence at ——————————; and that I have not given up, and that it is not my intention to give up, my residence in the United States, and I intend to return ultimately to the United States. I further declare that the ——————————— (Briefly identify the works of art) described in the invoice herewith were produced by me during my temporary residence abroad at ——————————, during the year 19—.

This declaration may be executed on commercial invoices when a purchase is involved or on a pro forma invoice when the artist and the importer are the same person and shall be attached to the entry papers used to effect clearance.

§ 10.52 Painted, colored or stained glass windows for religious institutions.

When painted, colored, or stained glass windows, or parts thereof, are claimed free of duty under item 850.30, Tariff Schedules of the United States,[47] the importer shall file in connection with the entry a declaration on Customs Form 3321, declaring that the importation was designed by, and produced by or under the direction of, a professional artist, and that it is for the use of an institution established solely for religious purposes. **[TD 35462, 53268, 54201, 54513, 55758, 55978.]**

§ 10.53 Antiques.

(a) Regardless of the value of articles, the invoices filed in connection with the entry of antiques and other articles under items 766.20 and 766.25, Tariff Schedules of the United States,[48] shall contain, if practicable, a statement by the seller or other person having competent knowledge of the facts stating the place and approximate date of production of the articles. In the case of the entry of such articles subject to Foreign Assets Control regulations, the invoices filed in connection with the entry shall contain a declaration by the actual foreign vendor, if the merchandise is shipped in pursuance of a purchase or agreement to purchase, or by the foreign owner, if the merchandise is shipped otherwise. The declaration shall show the name and address of the person from whom the articles were acquired by the vendor or owner, as the case may be. The declaration shall also show the date when so acquired, and, if practicable, the place and approximate date of production. A declaration executed on the invoice by an agent of the vendor or owner, competent to verify the value and other statements set forth in the invoice, may be accepted as a sufficient compliance with this regulation. The declaration may be waived by the district director in any case in which he is satisfied that (1) failure to produce it is not due to any lack of diligence or good faith on the part of the importer and that (2) the information is not required for any purpose in connection with the classification and appraisement of the articles: *Provided*, The declaration of the owner in this country or of the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase, required by paragraph (b) of this section, is supplemented by a statement of such owner or person, giving all the facts within his knowledge tending to show how long the articles have been in existence and where they were produced. **[TDs 42299, 44361, 45257, 46622, 53268, 53336, 55132, 55978, 56182, 67-108.]**

(b) At the time of entry of articles under item 766.20 or 766.25, Tariff Schedules of the United States, the following shall be required on the reverse of Customs Form 7501: **[TDs 42372, 46622, 52582, 53268, 54118, 70-59, 75-209, 75-279]**

The articles entered herein are being imported for —————. (State whether for sale or personal use.)

(c) Articles accompanying a passenger and entitled to entry under the passenger's declaration and entry, or articles entered under an informal entry which are claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, may be admitted free of duty upon the execution of a declaration on the face of the entry provided that the passenger or person filing the informal entry is the owner of the articles and that they are for his personal use and not for sale or other commercial use and provided the Customs officer concerned is satisfied that the articles are of the requisite age. **[TDs 53268, 55978, 66-186, 70-59.]**

(d) Antiques, if of the age prescribed by items 766.20 and 766.25, Tariff Schedules of the United States, shall be admitted free of duty though repaired or renovated. If, however, an antique has been repaired with a substantial amount of additional material, without changing the original form or shape, the original and added portions shall be appraised and reported as separate entities and the basis for such report shall be plainly indicated on the invoice by the appraiser. In such cases duty shall be assessed on the portion added. If the repairs consist of an addition to an article of a feature which changes it substantially from the article originally produced, or if the antique portion has otherwise been so changed as to lose its identity as the article which was in existence prior to the time prescribed in items 766.20 and 766.25, Tariff Schedules of the United States, the entire article shall be excluded from free entry under items 766.20 and 766.25, Tariff Schedules of the United States. **[TDs 37394, 39024, 41986, 42624, 43052, 44423, 44751, 45257, 55978, 56066.]**

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[45] "Works of art which are productions of American artists residing temporarily abroad * * *." (Item 765.30, Tariff Schedules of the United States.)

[47] "Painted, colored, or stained glass windows and parts thereof, all the foregoing valued over $15 per square foot and designed by, and produced by or under the direction of, a professional artist * * *." (Item 850.30, Tariff Schedules of the United States.)

[48] "Ethnographic objects made in the traditional aboriginal styles and made at least 50 years prior to their date of entry; and other antiques made prior to 100 years before their date of entry; all the foregoing articles including such articles which have been repaired or renovated without changing their original form or character: * * * other * * * Free." (Item 766.25, Tariff Schedules of the United States.)

(e) Furniture[49] claimed to be free of duty under item 766.20 or 766.25, Tariff Schedules of the United States, may be entered for consumption at any port of entry within the Customs territory of the United States. **[TDs 44165, 44240, 44241, 53399, 55132, 55978, 56402, 66-186.]**

(f) A claim for the free entry of an article under items 766.20 and 766.25, Tariff Schedules of the United States on the basis of antiquity may be made on the entry, or filed after entry at any time prior to liquidation of the entry, provided the article has not been released from Customs custody or it has been found upon examination before such release to be described in items 766.20 and 766.25, Tariff Schedules of the United States. **[TDs 51608, 52084, 53175, 55978.]**

(g) [Reserved] **[TDs 44522, 55978, 56-186.]**

(h) The additional duty of 12.5 percent or 25 percent, as appropriate imposed by item 766.30, Tariff Schedules of the United States,[50] shall apply to any article which is imported for sale and claimed, either at the time of entry or at a later date, to be free of duty under items 766.20 and 766.25, Tariff Schedules of the United States if such article is later found to be unauthentic in respect of the antiquity claimed as a basis for such free entry, unless the claim under items 766.20 and 766.25, Tariff Schedules of the United States is withdrawn in writing before the examination of the article for the purpose of appraisement or classification has begun. **[CD 95, 428. TDs 44348, 44165, 44522, 55978, 78-46.]**

(i) The 12.5 percent or 25 percent, as appropriate additional duty provided for in item 766.30, Tariff Schedules of the United States shall not be assessed if the importer established by evidence satisfactory to the district director that the article was not imported for sale. In the case of any article imported in a passenger's baggage or entered under an informal entry, the Customs officer concerned may accept the statement of the owner that the article was not imported for sale if he is satisfied of the truth of such statement. (Sec. 481, 46 Stat. 719, Sch. 7, pt. 11B, hdnote. 2, 77A Stat. 890; 19 U.S.C. 1481, 1202 (Sch. 7, pt. 11B, hdnote. 2)) **[TDs 44201, 46989, 48134, 55978, 56066, 66-186, 78-46, 56402.]**

§ 10.54 Gobelin and other hand-woven tapestries.

(a) Pursuant to item 364.05, Tariff Schedules of the United States,[51] Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government, and other hand-woven tapestries, shall be accorded free entry if of a kind fit only for use as wall hangings, and valued over $20 per square foot. **[TDs 44201, 46989, 55132, 55978.]**

(b) A certificate executed by the manager or other responsible employee of the Gobelin or other factory or producer establishing the character of the article shall accompany the invoice. If the absence of such a certificate is satisfactorily explained, other evidence establishing the necessary facts may be accepted. **[TDs 53268, 54056, 55132.]**

Vegetable Oils

§ 10.56 Vegetable oils, denaturing; release.

(a) Olive, palm-kernel, rapeseed, sunflower, and sesame oil shall be classifiable under items 176.28, 176.32, 176.44, 176.45, 176.49, or 176.54, Tariff Schedules of the United States, if denatured abroad or under Customs supervision after importation but before release from Customs custody, at the request and expense of the importer, by a formula prescribed by Headquarters, U.S. Customs Service, or if by their method of production abroad they are rendered unfit for use as food or for any but mechanical or manufacturing purposes. **[TDs 29957, 29976, 30006, 32056, 32807, 32859, 33827, 34215, 39491, 39519, 42726, 43274, 44107, 44550, 48114, 48255, 48613, 49324, 50622, 51994, 55978.]**

(b) Each cask or package of oil claimed to have been before importation denatured or otherwise rendered unfit for use as food or for any but mechanical or manufacturing purposes shall be sampled and tested by an appraising officer.

(c) Formulas prescribed by Headquarters, U.S. Customs Service, except proprietary mixtures, will be circulated to all Customs officers and will appear as abstracts of United States Customs Service decisions published in the weekly Customs Bulletins. Proprietary mixtures approved by the Commissioner of Customs will not be published but appropriate notice of their approval will be given to all Customs officers. **[TDs 49324, 50622, 51994, 55131, 55335.]**

(d) The Headquarters, U.S. Customs Service will from time to time prescribe additional formulas, and will consider any formula for special denaturing that may be submitted.

(e) The district director may, if he deems it advisable, require an importer requesting permission to use any authorized denaturant to submit to the appraiser an adequate sample of such denaturant, in order that the appraiser may report to the district director whether or not such denaturant is suitable for rendering the oil unit for use as food or for any but mechanical or manufacturing purposes.

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[49] "Furniture" as used in this section of the regulations is defined as "movable articles of convenience or decoration for use in furnishing a house, apartment, place of business, or of accommodation". This definition embraces most articles claimed to be free of duty as antiques.

[50] "Any article imported for sale and claimed to be classifiable under item 766.20 or item 766.25, and thereafter determined to be not authentic in respect to the antiquity claimed as a basis for classification thereunder * * * a [column 1] duty of 12.5 percent ad val.* * * [or] a [column 2] duty of 25 percent ad val. in addition to any other duty imposed on such article under these schedules." (Item 766.30, Tariff Schedules of the United States.)

[51] "Gobelin and other hand-woven tapestries fit only for use as wall hangings, and valued over $20 per square foot * * *." (Item 364.05, Tariff Schedules of the United States.)

(f) No such oil shall be released free of duty until the appraiser shall have made a special report that it has been properly denatured and the owner or consignee shall have filed with the district director a declaration in the following form: **[TDs 53268, 66-182.]**

(Date)

I ——————————, declare that I am the owner or consignee of the ———————(Kind of oil) oil described in the invoice and entry hereto attached, and that the same has been rendered, in accordance with a formula approved by the United States Customs Service, permanently unfit for use as food or for any but mechanical or manufacturing purposes, and will be used only for such purposes.

(Owner or consignee)

(Address)

Potatoes, Corn, or Maize

§ 10.57 Certified seed potatoes, and seed corn or maize.

Claim for classification as seed potatoes under item 137.20, Tariff Schedules of the United States, or as seed corn or maize under item 130.30, Tariff Schedules of the United States, shall be made at the time of entry. Such classification shall be allowed only if the articles are white or Irish potatoes, or maize or corn, imported in containers and if, at the time of importation, there is firmly affixed to each container an official tag supplied by the government of the country in which the contents were grown, or an agency of such government. The tag shall bear a certificate to the effect that the specified contents of the container were grown, and have been approved, especially for use as seed. The tag shall also bear a number or other symbol identifying the potatoes or corn in the container with an inspection record of the foreign government or its agency on the basis of which the certificate was issued. **[TDs 52004, 52796, 55978.]**

Bolting Cloths

§ 10.58 Bolting cloths; marking.

(a) As a prerequisite to the free entry of bolting cloth for milling purposes under item 357.25, Tariff Schedules of the United States,[55] the cloth shall be indelibly marked from selvage to selvage at intervals of not more than 4 inches with the words "bolting cloth expressly for milling purposes" in block letters 3 inches in height. Such cloth shall be allowed free entry only under the following conditions: **[TDs 33929, 44942, 45077, 46181, 55978.]**

(1) Bolting cloths composed of silk imported expressly for milling purposes shall be considered only such cloths as are suitable for and are used in the act or process of grading, screening, bolting, separating, classifying, or sifting dry materials, or of dry materials mixed with water, if the water is merely a carrying medium.

(2) If an importer is a manufacturer of mills or machines for any process described above, or conducts a business wherein any act or process described above, constitutes an activity, he shall file with the district director in connection with the entry a certificate that he is such a manufacturer or conducts such a business and that such bolting cloths are imported expressly for milling purposes. **[TDs 53268, 53399.]**

(3) If bolting cloths are imported by an agent in fulfillment of an accepted order, the importer, shall file with the district director in connection with the entry a certificate showing the name of the actual purchaser of such bolting cloths and that such purchaser is a manufacturer or conducts a business as described, or conducts a business for the purpose of supplying such manufacturers and businesses. **[TD 53268.]**

(4) If bolting cloths are imported for stock, the importer shall file with the district director in connection with the entry a certificate to the effect that he imports such bolting cloths expressly for the purpose of supplying manufacturers and businesses as described, or of supplying other firms who in turn supply manufacturers and businesses as described. **[TD 53268.]**

(b) Bolting cloths not marked in the manner above indicated at the time of importation may be so marked by the importers in public stores under the supervision of customs officers.

Withdrawal of Supplies and Equipment for Vessels

§ 10.59 Exemption from customs duties and internal-revenue tax.[56]

(a) A vessel shall not be considered to be actually engaged in the foreign trade, or in trade between the Atlantic and Pacific ports of the United States, or between the

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[55] "Woven bolting cloths, * * * Wholly of silk, imported to be used for milling purposes, and marked so as to be fit only for such purposes * * *." (Item 357.25, Tariff Schedules of the United States.)

[56] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign
or domestic origin may be withdrawn, under such regulations as the Secretary of the
Treasury may prescribe, from any customs bonded warehouse, from continuous cus-
toms elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty
and internal-revenue tax, or from any internal-revenue bonded warehouse, from any
brewery, or from any winery premises or bonded premises for the storage of wine, free
of internal-revenue tax— **[CIEs 225/47; 1637/57; TDs 49815 (4), 51867 (4), 53928 (2),
54892 (4), 55374, 55853.]**
"(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the
United States, (B) vessels of the United States employed in the fisheries or in the
whaling business, or actually engaged in foreign trade or trade between the Atlantic
and Pacific ports of the United States or between the United States and any of its
possessions, or between Hawaii and any other part of the United States or between
Alaska and any other port of the United States, or (C) aircraft registered in the United
States and actually engaged in foreign trade or trade between the United States and
any of its possessions, or between Hawaii and any other part of the United States or
between Alaska and any other part of the United States; or
"(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign
nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or
actually engaged in foreign trade or trade between the United States and any of its
possessions, or between Hawaii and any other part of the United States or between
Alaska and any other part of the United States, where such trade by foreign vessels is
permitted; or
"(3) for supplies (including equipment), ground equipment, maintenance, or repair
of aircraft registered in any foreign country and actually engaged in foreign trade or
trade between the United States and any of its possessions, or between Hawaii and
any other part of the United States or between Alaska and any other part of the United
States, where trade by foreign aircraft is permitted. With respect to articles for ground

[Footnote continued on next page]

United States and its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, as the case may be, for the purpose of withdrawing supplies free of duty and internal-revenue tax pursuant to section 309(a), Tariff Act of 1930, as amended, unless it is— **[CAD 165; CIE 961/40; TDs 9776, 9787, 18379, 23237, 45047, 46522, 48243, 48447(12), 48788, 49815, 50380(5), 51667(4), 53999, 55374.]**

(1) Operating on a regular schedule in a class of trade which entitles it to the privilege;

(2) Actually transporting passengers or merchandise to or from a foreign port, a port on the opposite coast of the United States, or between a port in a possession of the United States and a port in the United States or in another of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States;

(3) Departing in ballast (without cargo or passengers) from one port for another, domestic or foreign, for the purpose of lading passengers or cargo at the port of destination for carriage in a class of trade specified in section 309(a), Tariff Act of 1930, as amended, for which class of trade the vessel is suitable and substantially ready for service with necessary fittings, outfit, and equipment already installed on its departure in ballast, and from which it is not diverted prior to carriage of passengers or cargo in such trade. A written declaration of the owner or agent of the vessel may be required in connection with the withdrawal, certifying to the vessel's suitableness and substantial readiness with necessary fittings, outfit, and equipment already installed on its departure in ballast for service in a class of trade specified in section 309 and agreeing to notify the district director if it is laid up or diverted from such class of trade prior to the carriage of cargo or passengers in such trade. **[CD 199; CADs 174, 569; TDs 50130, 53336, 53983.]**

(b) A withdrawal of articles may not be made under section 309, Tariff Act of 1930, as amended, for use on a trial or test trip of a vessel preparatory to its actually engaging in trades. **[TD 53983.]**

(c) The classes of articles which may be withdrawn as provided for by section 309, Tariff Act of 1930, as amended, include the containers in which the articles are withdrawn and laden even though for tariff purposes the containers are classifiable separately from their contents, except unusual containers within the purview of general headnote 6, Tariff Schedules of the United States. **[CAD 165. CD 377. TDs 53983, 55653, 55978.]**

(d) For the purpose of allowing the privileges of section 309, Tariff Act of 1930, as amended, to aircraft as provided for therein, an aircraft shall be deemed to be a vessel within the meaning of each provision of this section and of § § 10.60-10.64 which may be applied to aircraft. **[TDs 48243, 53336, 53983.]**

(e) Vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309 of the Tariff Act of 1930, as amended, if the district director is satisfied from the quantity requested, in the light of (1) whether the vessel is employed in substantially continuous fishing activities, and (2) the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. Such withdrawal shall be permitted only after the approval by the district director of a special written application, in triplicate, on Customs Form 5125, of the withdrawer, supported by a bond on Customs Form 7603 executed by the withdrawer. Such application shall be filed with Customs Form 7506 or 7512,[57] as the case may be. The original and the triplicate copy of the application, after approval, shall be stamped with the withdrawal number and date thereof and shall be returned to the withdrawer for use as prescribed below. Approval of each such application shall be subject to the condition that the original and the triplicate copy shall be presented thereafter by the withdrawer or the vessel's master to the district director within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a Customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the articles until the district director is satisfied that all of them have been consumed on board, or landed under Custom's supervision, and takes up the original application. (The withdrawer shall retain the triplicate copy as evidence of consumption on boar landing under Customs supervision.) The approval shall be subject to the further conditions that any such withdrawn article remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the district director for the port or place of arrival shall deem necessary and that failure to comply with the conditions upon which a conditionally free withdrawal is approved shall subject the total quantity of withdrawn articles to the assessment and collection of an amount equal to the duties and taxes that would have been assessed on the entire quantity of supplies withdrawn had such supplies been regularly entered, or withdrawn, for consumption. **[CCL 47/57. TDs 51667 (4), 53336, 53935, 53983, 54541, 77-25.]**

(f) Pursuant to section 309(d) of the Tariff Act of 1930, as amended, the Department of Commerce has found and advised the Secretary of the Treasury of the foreign countries which allow privileges to aircraft registered in

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[Footnote continued from last page]
equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

"The provisions for free withdrawals made by this subsection (a) shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States."

* * * * * * *

"(d) *Reciprocal privileges.* The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U.S.C. 1309)

[57] Exemption from internal-revenue tax on distilled spirits, alcohol, wines, and beer removed from any internal-revenue bonded warehouse, industrial alcohol premises, bonded wine cellar, or brewery; and drawback on taxpaid distilled spirits or wines removed from an export storage room, or on taxpaid beer removed from a brewery (or place of storage elsewhere), for use as supplies on vessels under section 309, Tariff Act of 1930, as amended, are governed by regulations of the Internal Revenue Service.

United States substantially reciprocal to those described in sections 309 and 317 of the Tariff Act of 1930, as amended.[57a] Advices also have been received of changes and limitations of privileges allowed. In accordance with these advices, Treasury decisions are issued extending to the aircraft of foreign countries free withdrawal privileges reciprocal to those found by the Secretary of Commerce to be extended by those countries to aircraft registered in the United States or making changes in such privileges on the basis of new findings. Listed below by countries are the Treasury decisions issued pursuant to such findings which are currently in effect: [TD 70-73.]

(Secs. 309, 317, 46 Stat. 690, as amended, 759 (19 U.S.C. 1309, 1317)).

Country	Treasury Decisions		Exceptions if any, as noted—
Argentina	54925	(1)	Applicable only as to aircraft equipment, spare parts, and supplies other than fuel and lubricants.
Australia	54747	(1)	Not applicable to ground equipment.
Austria	80-68		
Bahamas	52798	(3)	
Belgium	52846	(2)	
Bermuda	49944	(4)	
Brazil	53281	(2)	
Canada	69-149 69-245		Not applicable to ground equipment during period May 1 to September 16, 1969, inclusive.
China*	82-91		
Chile	66-128	(2)	
Colombia	70-107	(1)	
Costa Rica	53658	(1)	
Czechoslovakia	70-107	(1)	
Dahomy	71-215		
Denmark	51966	(3)	
Dominican Republic.	54522	(1)	
Ecuador	52510	(4)	
Egypt	74-3		Applicable only as to aircraft fuels and lubricants.
El Salvador	54675	(1)	
Finland	69-120	(2)	
France	67-96	(1)	Not applicable to tobacco products under section 317 of the tariff act. Not applicable to ground equipment.
Federal Republic of Germany.	69-150		Not applicable to ground equipment.
Greece	54847	(1)	
Guyana	78-28		
Honduras	71-154		
Iceland	67-265	(1)	
India	55155	(1)	
Iran	75-254		
Ireland	55291	(1)	
Israel	52831	(3)	
Italy	69-223		Not applicable to ground equipment.
Ivory Coast	71-215		
Jamaica	70-250		
Japan	53550	(1)	
Jordan	74-102		
Kenya	71-102		Applicable only as to aircraft fuels and lubricants.
Lebanon	53902	(1)	
Mexico	54506	(5)	
Morocco	75-254		
Netherlands	52494	(2)	
Netherlands Antilles.	71-211		
New Zealand	73-52		Not applicable to ground equipment.
Nicaragua	54640	(1)	
Norway	51966	(3)	
Pakistan	55416	(1)	
Panama	55453	(1)	
Peru	52911	(2)	
Poland	72-153		
Portugal	68-107	(1)	Not applicable to ground equipment.
Republic of Korea	71-140		
Republic of the Philippines.	71-197		
Romania	75-35		
Saudi Arabia	73-307		Applicable only as to aircraft fuels, lubricants, and consumable technical supplies.
Senegal	71-215		
South Africa	69-162		Not applicable to ground equipment.
Spain	54522	(2)	
Sweden	51966	(3)	
Switzerland	56047		
Tanzania	71-102		Applicable only as to aircraft fuels and lubricants.
Thailand	71-138		Not applicable to ground equipment.
Trinidad and Tobago.	56441	(1)	
Uganda	71-102		Applicable only as to aircraft fuels and lubricants.
Union of Soviet Socialist Republics.	67-123	(1)	
United Kingdom	69-176		Not applicable to ground equipment.
Venezuela	55425	(1)	
Yugoslavia	71-138		
Taiwan	70-107 82-91	(1),	Not applicable to ground equipment.

* See also Taiwan

Note: For FR citations affecting § 10.59, see List of CFR Sections Affected.

[57a] Section 4221, title 26, United States Code, provides for exemption from manufacturers' excise taxes on articles for use on qualified aircraft, including aircraft registered in a foreign country if the Secretary of Commerce has advised that such country allows substantially reciprocal privileges in respect of aircraft registered in the United States. Advises received from the Secretary of Commerce under this statute are published in Internal Revenue Bulletins. (Secs. 309, 317, 624, 46 Stat. 690, as amended, 696, as amended 759; 19 U.S.C. 1309, 1317, 1624)

§ 10.60 Forms of withdrawals; bonds.

(a) Withdrawals from warehouse shall be made on Customs Form 7506 (Warehouse Withdrawal Conditionally Free of Duty). Each withdrawal shall contain the statement prescribed for withdrawals in § 144.32 of this chapter and all of the statistical information as provided in § 141.61(e) of this chapter. Withdrawals from continuous Customs custody elsewhere than in a bonded warehouse shall be made on Customs From 7512, except as provided for by paragraph (h) of this section. When a withdrawal of supplies or other articles is made which may be used on a vessel while it is proceeding in ballast to another port as provided for by § 10.59(a)(3), a notation of this fact shall be made on the withdrawal and the name of the other port given if known. **[CIEs 412/48, 369/58, 471/58. TDs 38536, 44477, 48788, 51567, 52965, 53792, 53935, 53983, 73-175, 73-312.]**

(b) If the withdrawal is made by other than the principal on the warehouse or rewarehouse entry, as the case may be, the assent of such principal shall be endorsed on the withdrawal, unless the principal has otherwise authorized such withdrawal in writing.

(c) A bond on Customs Form 7561 or other appropriate form shall be taken when the withdrawal from warehouse is made by a person other than the principal on the warehouse or rewarehouse entry, as provided for in paragraph (b) of this section. **[TD 53336.]**

(d) When the supplies are to be laden at a port other than the port of withdrawal from warehouse, they shall be withdrawn for transportation in bond to the port of lading. Three copies of the manifest on Customs Form 7512, in addition to six copies of the withdrawal on Customs Form 7506, shall be required. The procedure shall be the same as that prescribed in § 144.37 of this chapter (the six copies of Customs Form 7506 taking the place of the entry copies of Customs Form 7512). **[CCL 23/56. TDs 18922, 48495, 53983, 73-175.]**

(e) No bond shall be required in the case of war vessels.

(f) Unless transfer is permitted under the provisions of paragraph (h) of this section, when articles are withdrawn from continuous Customs custody elsewhere than in a bonded warehouse for lading at the port of withdrawal, the procedure provided for in § 18.25 of this chapter shall be followed, except that the bond required shall be on Customs Form 7557, 7559, or 7595. Unless transfer is permitted under the provisions of paragraph (h) of this section, when articles are withdrawn from continuous Customs custody elsewhere than in a bonded warehouse for lading at another port, the procedure set forth in § 18.26 of this chapter shall be followed, except that the withdrawal when filed shall be supported by a bond on Customs Form 7557, 7559, or 7595. There shall be such examination of the articles as may be necessary to satisfy the district director that they are subject to the privileges of section 309, Tariff Act of 1930, as amended, and that the value and quantity declared for them are correct. **[CCL 23/56. CIE 448/58. TDs 51567, 52965, 55653.]**

(g) A withdrawal under § 10.59(e) shall be supported by a bond on Customs Form 7603 in lieu of any other bond. **[TDs 53935, 54101.]**

(h) If a request is made for permission to transfer supplies or stores from one vessel to another which would be entitled to withdraw them free of duty and tax under section 309 or 317, Tariff Act of 1930, as amended, the district director in his discretion may permit the articles to be so transferred under Customs supervision under a permit on Customs Form 3171 in lieu of a formal withdrawal under the pertinent statute. In such a case, the pertinent statute shall be indicated by an endorsement made on the permit by the district director. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309) **[TDs 52965, 53935, 55653.]**

§ 10.61 Withdrawal permit.

Upon the filing of the withdrawal and the execution of the bond, when required, the district director shall issue a permit on Customs Form 7506 or 7512. (Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a)) **[TDs 44477, 51567, 53174, 53448, 54485, 55653.]**

§ 10.62 Bunker fuel oil.

(a) When all the bunker fuel oil in a Customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 of the Tariff Act of 1930, as amended, delivery of the oil, either by pipeline or by Customs bonded carrier, under withdrawals on Customs Form 7506, either single or monthly (blanket), may be effected without the presence of a Customs officer upon the condition that Customs Form 7505-B, Order to Release Merchandise on Order of the Warehouse Proprietor, is executed by the withdrawer for each delivery of oil from the tank. Customs Form 7505-B shall be filed by him with the district director of Customs at the time of withdrawal or at such other time as the district director may specify and shall include the following additional data: **[CIEs 369/58, 471/58. TDs 53448, 53982, 55653, 67-25, 69-99.]**

(1) Type of oil withdrawn.

(2) Number of other identification of sales order therefor.

(3) Name of bonded carrier, date it received oil.

(4) Receipt signed by master or other person in charge of delivering conveyance identified by number or name and, if a Customs bonded lighterman or cartman, by the carrier's license number.

(5) Name and location of vessel obtaining oil.

(6) Quantity and identification of each type of oil received with date, and signature and title of receiving officer. If all the oil is laden on the receiving vessel at the port of withdrawal via pipeline from the bonded storage tank, subparagraphs (3) and (4) of this paragraph shall be deemed to be inapplicable.

(b) If a blanket free withdrawal of bunker fuel oil is filed, to comply with Bureau of the Census requirements the withdrawal on Customs Form 7506 shall be endorsed "Estimated Withdrawals" and limited to the aggregate quantity and value of fuel oil which it is estimated will be physically removed from Customs bond during the calendar month in which the withdrawal is filed for lading on vessels entitled to duty-free vessel supplies under section 309 of the Tariff Act of 1930, as amended. **[TD 69-99.]**

(c) (1) As an incident of the delivery of fuel oils classifiable at different rates of duty to a vessel or vessels under section 309 of the tariff act, the district director of Customs may, when necessary to enable a supplier to meet fuel specifications, permit the blending of the oils in the delivering conveyance or in other suitable facilities after withdrawal from the bonded tanks, upon the condition that, to the extent of the amount of oil withdrawn classifiable at the higher rate, duty at the higher rate will be paid on any portion of the blended fuel oil not delivered within a reasonable time to a qualified vessel. The withdrawer shall be required to file a withdrawal for consumption for the excess quantity withdrawn. For example, if the quantity withdrawn consists of 1,500 barrels of bunker C fuel oil classifiable at the rate of one-eighth cent per gallon and 500 barrels of diesel oil classifiable at the rate of one-fourth cent per gallon but only 1,400 barrels of the blended oil are actually laden as fuel supplies on qualified vessels, withdrawals for consumption are required for 500 barrels of diesel oil at the higher rate and for 100 barrels of bunker C fuel oil at the lower rate. **[TDs 53982(1), 69-99.]**

(2) The receipt of the delivering carrier on Customs Form 7505-B for fuel oil which has been blended in accordance with subparagraph (1) of this paragraph with components classifiable at different rates of duty shall show for each warehouse entry number and withdrawal number involved the type and quantity of oil received.

(d) Fuel oil withdrawn as vessel supplies at one port may be laden at another port on a vessel or vessels entitled to the free withdrawal privileges of section 309 of the tariff act, under procedures prescribed in this section, provided the movement to the receiving vessel or vessels is under the bond of a qualified carrier as described in § 18.1(a) of this chapter. In such cases, the provisions of § 10.60(d) of this chapter shall be deemed inapplicable. **[TD 69-99.]**

(e) If a vessel not entitled to duty-free withdrawal of supplies from Customs bonded warehouses under section 309 of the Tariff Act of 1930, as amended should be supplied with fuel oil from a Customs bonded tank described in paragraph (a) of this section because of an emergency, a duty paid withdrawal therefor shall be filed on the first day that the customhouse is open for the general transaction of business after the day on which the oil is laden on the using vessel. If there should be willful or repeated instances of late filing of a duty-paid withdrawal in such cases, the district director of Customs shall require a duty-paid withdrawal to be filed prior to the removal of fuel oil from the bonded tank. Immediate Customs supervision over the removal of oil under this paragraph is not required. **[TD 69-99.]**

(f) When the procedures prescribed in this section are followed, representatives of the regional commissioner of Customs will from time to time verify various withdrawals against all pertinent records, including financial records, of the withdrawers, deliverers, and receivers of the oil. The withdrawer shall maintain all pertinent records relating to the withdrawal, delivery, or receipt of the fuel oil for 5 years from the date of liquidation of the related fuel oil entry. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309) **[TDs 69-99, 79-159.]**

§ 10.62a Blanket withdrawals for certain merchandise.

(a) Under this section, a blanket withdrawal on Customs Form 7506 may be filed for all or part of any merchandise, except fuel oil covered by a warehouse entry intended for withdrawal under section 309 or 317 of the Tariff Act of 1930, as amended, for use on qualified vessels. The withdrawal form shall bear in the top margin the wording Master Withdrawal for Vessel Supplies conspicuously stamped or printed but without the summary statement described in § 144.32 of this chapter. **[TDs 69-177, 73-175.]**

(b) The blanket withdrawal shall be executed in quadruplicate or in quintuplicate if an additional copy is required for control purposes in local administration. The original shall be forwarded to the Customs warehouse officer to serve as a permit to withdraw the merchandise covered thereby upon the filing of supplemental withdrawals as provided in paragraph (c) of this section. One copy shall be kept with the related entry. One copy shall be returned to the withdrawer for use in preparing the supplemental withdrawals. One copy (statistical) shall be forwarded to the Bureau of the Census.

(c) A supplemental withdrawal on Customs Form 7506, in duplicate or in triplicate if an extra copy is needed for local control, shall be filed directly with the Customs warehouse officer as merchandise covered by the blanket withdrawal is needed for delivery to a using vessel. The supplemental withdrawals shall be consecutively numbered by the withdrawer immediately after the serial number of the master withdrawal. Each supplemental withdrawal shall bear the summary statement described in § 144.32 of this chapter. The original of the supplemental withdrawal shall accompany the merchandise for delivery to the Customs officers who will supervise the lading. (Secs. 309, 317, 46 Stat. 690, as amended, 696, as amended; 19 U.S.C. 1309, 1317) **[TD 73-175.]**

§ 10.63 Landing of supplies and stores from receiving vessel in the United States.

Supplies or stores laden on a vessel duty and tax free under section 309, Tariff Act of 1930, as amended, may be landed under Customs supervision under proper permit, the same as if they had been laden in a foreign country. See § § 4.39 and 23.4 of this chapter. Except when transfer to another vessel entitled to the free withdrawal privilege is permitted under the original withdrawal under section 309, Tariff Act of 1930, as amended, the landed articles shall be treated as an importation from a foreign country.[58] (Sec. 309(a), 46 Stat. 690, as amended; 19 U.S.C. 1309(a)) **[CD 199; TDs 48399, 48788, 51567, 54485, 55653.]**

§ 10.64 Crediting or cancellation of bonds.

(a) Except as stated below, the warehouse or rewarehouse entry bond or the bond identified in § 10.60 (c) or (f) for articles withdrawn under section 309, Tariff Act of 1930, as amended, for use as supplies, equipment, or for repair of a vessel may be credited or canceled in respect of such articles upon the vessel's departure from the port of lading in a class of trade or business entitling the articles to exemption from duty and tax under the statute. If the vessel is not operated by the United States and proceeds in ballast from the port where the articles are laden to another port to lade passengers or cargo for carriage in a class of trade specified in section 309, Tariff Act of 1930, as amended, the bond may be credited or canceled upon the filing with the district director at the port of withdrawal within 3 months after the date of withdrawal of a proper declaration as prescribed below. The declaration shall be executed by one of the following who has knowledge of the facts: **[CCL 47/57; TDs 51567, 53268, 53983, 54485, 54688, 55374, 55653.]**

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[58] (c) Articles removed in, or returned to, the United States. Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

(1) The operations manager or port captain for the vessel on which the articles are laden but not a representative of the supplier.

(2) The master or other officer of the vessel on which the articles are laden. The declaration shall be in substantially the following form:

I, ________________________________

(Operations manager, port captain, master, or other officer) of the vessel ———— declare that I have knowledge of the facts set forth herein, and that upon the lading of the articles described below covered by withdrawal No. ————, filed at ————————(Name of port), the vessel then proceeded in ballast to ——————————(Name of port) to lade cargo or passengers; that the vessel was suitable for service in the class of trade checked below with fittings, outfit, and equipment for such trade already installed when it so departed in ballast; and that upon arrival it proceeded to engage in the carriage of cargo or passengers in such trade, except as stated below:

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(If no exception, note "None")

1. Foreign Trade.
2. Trade between Atlantic and Pacific ports of the United States, when such trade is not prohibited by coastwise laws.
3. Trade between the United States and any of its possessions, when such trade is not prohibited by coastwise laws.
4. Trade between Alaska or Hawaii and any other part of the United States, when such trade is not prohibited by coastwise laws.

Description of articles:

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(Name and title)

(b) A declaration as to the intended business or trade of a vessel may, in the discretion of the district director, be accepted in lieu of a declaration prescribed in paragraph (a) of this section when the amount of duty or tax, or both, involved in a single lading is less than $100. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309) **[TDs 54101, 54485.]**

§ 10.64a Bonded fuel laden as aircraft supplies.

(a) In addition to other provisions of the regulations for the withdrawal of bonded fuel, for each fueling of an aircraft with fuel withdrawn from a Customs bonded warehouse without payment of duty and internal revenue tax under section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), or for each duty-paid and tax-paid withdrawal, except duty-paid withdrawals filed in connection with a reconciliation of the consolidated report (see paragraph (f) of this section), or for any other type of withdrawal of fuel including transfer of a quantity of bonded fuel covered by the same warehouse entry, the person making the withdrawal or his designated agent shall prepare, in duplicate, and sign a Bonded Fuel Control Card, Customs Form 7309. The withdrawer shall file with the district director the executed Bonded Fuel Control Card, Customs Form 7309, within 15 days after the date of the transaction. Upon request of the withdrawer, for good cause shown, the district director may extend the time for filing up to 21 days after the date of the respective transaction. A copy of the fuel sales ticket may be used in place of the Bonded Fuel Control Card, Customs Form 7309, providing it contains all of the data and is in the same format as Customs Form 7309 and prior Customs approval been obtained. **[TD 73-130.]**

(b) If bonded fuel covered by a particular warehouse entry cannot be withdrawn within 90 days after the date of entry, a withdrawer may request one or more extensions of 30 or 60 days in order to postpone receipt of the consolidated report sent to him for response pursuant to paragraph (f) of this section. The withdrawer shall use a copy of Customs Form 7309 for this purpose, noting over his signature the region-district-port code number, the warehouse or rewarehouse entry number, and the extension requested. The withdrawer shall file the original completed form with the district director at the port of withdrawal.

(c) When imported fuel withdrawn under section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), is laden on a qualified U.S.-registered aircraft which departs directly for a foreign country or for a possession of the United States from a port where it is not otherwise required to clear Customs, an authorized representative of the carrier shall file an executed Flight Verification Card, Customs Form 7309-A, in duplicate, with the district director at the port of departure within 48 hours after departure. If the port of departure is not a U.S. Customs port, the executed Flight Verification Card, Customs Form 7309-A, shall be delivered to the district director at the Customs port nearest the final U.S. port of departure.

(d) In the case of an aircraft of U.S. registry arriving in the United States from a foreign country or from a possession of the United States and fueling with bonded fuel for use on the remaining leg(s) of a qualified flight to a U.S. destination for which a permit to proceed is not required, an authorized representative of the carrier shall file an executed Flight Verification Card, Customs Form 7309-A, in duplicate, with the district director at the U.S. port of destination (termination) of the flight within 48 hours after the arrival of the aircraft at that port. If the port of destination is not a U.S. Customs port of entry, the executed flight verification card, in duplicate, shall be filed within the 48 hours with the district director at the Customs port of entry nearest the U.S. port of destination.

(e) When imported fuel withdrawn under section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), is laden on a U.S.-registered aircraft which departs without clearing under a permit to proceed from Puerto Rico for the U.S. mainland, an authorized representative of the carrier shall file an executed Flight Verification Card, Customs Form 7309-A, in duplicate, with the district director at the U.S. port of destination (termination) of the flight within 48 hours after the arrival of the aircraft at that port. If the port of destination is not a U.S. Customs port of entry, the executed flight verification card, in duplicate, shall be filed within 48 hours with the district director at the Customs port of entry nearest the U.S. port of destination.

(f) Within 60 days after the date of mailing or personal delivery to a withdrawer of two copies of the consolidated report of all withdrawals under a given warehouse entry, the withdrawer shall sign the Certificate of Use on one copy of the report, return it to the district director together with a satisfactory documented reconciliation of all discrepancies, and file a duty-paid withdrawal for any of the fuel not properly accounted for. The other copy of the consolidated report shall be retained by the withdrawer. A Customs Form 7309 is not required with a duty-paid withdrawal, Customs Form 7505, filed in connection with the reconciliation. Oil import licenses shall be charged when appropriate.

(g) The certificate of use shall read as follows:

> I hereby certify that the fuel indicated above, with the exceptions as noted, (1) was laden for use as supplies for aircraft operated by the United States, or (2) was laden aboard an aircraft registered in the United States and, as reported to us by the respective airline, actually engaged in foreign trade or trade between the United States and any of its possessions, or (3) was laden for use as supplies for an aircraft registered in any foreign country where trade by foreign aircraft is permitted, entitled to the reciprocal privileges as provided in section 309(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), and, as reported to us by the respective airlines, actually engaged in foreign trade or trade between the United States and of its possessions, or (4) was laden aboard foreign military aircraft in accordance with item 841.20 of the Tariff Schedules of the United States (19 U.S.C. 1202), on the basis of reciprocity.

(h) The district director, upon written application, may extend the 60-day period for the filing of the documents and any deposit of duties required under paragraph (f) of this section, if the district director is satisfied that the withdrawer has been or will be prevented by circumstances beyond his control from filing the documents and depositing the duties within the 60-day period.

(i) For purposes of this section, a U.S.-registered aircraft chartered and operated by a foreign airline shall be deemed to be a foreign-registered aircraft. The country of registry (flag) of the aircraft shown on the Bonded Fuel Control Card, Customs Form 7309, shall be the country code of the foreign airline. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309); R.S. 251, as amended, sec. 309, 46 Stat. 690, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1309, 1624)

§ 10.65 Cigars and cigarettes.

(a) Imported cigars and cigarettes in bonded warehouse or otherwise in Customs custody, and such articles manufactured with the use of imported materials in a bonded manufacturing warehouse of class 6, may be withdrawn under section 317, Tariff Act of 1930, as amended,[59] for consumption beginning beyond the 3-mile limit or international boundary, as the case may be, (1) on vessels actually engaged in the foreign, intercoastal, or noncontiguous territory trade within the purview of § 10.59(a); (2) on vessels departing from the port where the withdrawal is made directly for a foreign port, a port on the opposite coast, or a port in one of the possessions of the United States; or (3) on vessels of war or other governmental activity. **[TDs 44477, 54393, 67-193]**

(b) The privilege shall not be granted to vessels stationed in American waters for an idefinite period without sailing schedules, nor shall it be granted to aircraft of foreign registry of a country for which there is not in effect a finding and advice by the Department of Commerce under section 309(d), Tariff Act of 1930, as amended, that such country allows privileges to aircraft registered in the United States substantially reciprocal to those described in section 317, Tariff Act of 1930, as amended. See section 10.59(f). **[TD 70-73.]**

(c) With the following additions and exceptions, the same procedure shall be followed as in the case of withdrawals under section 309(a), Tariff Act of 1930, as amended.

(1) No bond shall be required in the case of vessels operated by the United States Government.

(2) When a shipping case containing cigars and cigarettes is made up of a number of units, each in a separate package, such units may be withdrawn separately, provided each unit is marked and numbered for identification and contains not less than 250 cigars or 1,000 cigarettes. In the case of imported cigars and cigarettes so packed, only one unit from each shipping case shall bo opened for examination, unless the district director of Customs shall deem it necessary for the protection of the revenue to examine a greater quantity.[60] **[TD 54393, 67-193.]**

(3) When all the units in such shipping case are not to be withdrawn at the same time or for use on the same

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[59] "(a) The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 2197(a) of 26 U.S.C., shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

"(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of any vessel or aircraft described in subdivision (2) or (3) of section 309(a) of this Act, or for use as ground equipment for any such aircraft, shall be deemend and exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax. With respect to merchandise for use as ground equipment, such shipment or delivery shall not be deemed an exportation within the meaning of the internal-revenue laws relating to taxes other than those imposed upon or by reason of importation." (Tariff Act of 1930, sec. 317, as amended; 19 U.S.C. 1317)

"The internal revenue laws imposing taxes on tobacco, snuff, cigars, or cigarettes shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not." (26 U.S.C. 2197 (a))

[60] Imported tobacco products on which the duty or internal-revenue tax has been paid may not be withdrawn under section 317, Tariff Act of 1930, as amended, with a drawback of such duty or internal-revenue tax.

vessel, a blanket withdrawal may be filed for the entire case in lieu of a separate withdrawal for each unit. In such event, the withdrawal shall be retained by the Customs warehouse officer until delivery receipts are obtained for the entire quantity covered by the withdrawal, provided the total period of time during which the merchandise remains in bonded warehouse does not exceed 3 years. The bond on Customs Form 7561 or other appropriate form, when required, shall be filed at the time of or prior to the removal of any of the merchandise from the warehouse for delivery to the vessel on which it is to be used. **[TD 53336.]**

(4) Merchandise for which blanket withdrawals are filed shall be stored in a separate room or enclosure in a bonded warehouse under separate locks, and shall be inventoried at least once each month. If, at the time of such inventory, any merchandise is missing and not properly accounted for, duties shall be paid thereon before any further withdrawals are permitted.

(5) The declaration of use, when required, shall include a statement that consumption of the articles covered by the withdrawal did not begin until the withdrawing vessel or aircraft had proceeded beyond the 3 mile limit or the international boundary. (Sec. 317, 46 Stat. 696, as amended; 19 U.S.C. 1317)

Articles Exported for Exhibition, Etc.

§ 10.66 Articles exported for temporary exhibition and returned; horses exported for horse racing and returned; procedures on entry.

(a) In connection with the entry of articles, including livestock or other animals, exported for temporary exhibition and returned and claimed to be exempt from duty under item 802.20[61] or item 802.30,[62] Tariff Schedules of the United States, there shall be filed: **[TDs 17202, 29950, 37305, 55978, 78-153.]**

(1) A certificate of exportation on Customs Form 3311; **[TD 74-242.]**

(2) A declaration by the foreign shipper, irrespective of the value of the shipment, stating: **[TDs 53399, 54056, 54183.]**

I, ————————————, do hereby declare that the merchandise herein described was imported from the United States, and that it was sent to —————————— for temporary use at the Exhibition entitled ——————————, held at ———————— on ——————————, 19—.

____

(Date and place of signing)

____

(Signature of exporter or authorized agent)

(3) A declaration of the importer on Customs Form 4455 for articles of either domestic or foreign origin; and **[TD 75-235.]**

(4) In the case of animals of foreign origin taken abroad for exhibition in connection with a circus or menagerie, a copy of an inventory of these animals filed prior to their leaving the country with the district director at the port of their departure. **[TDs 20819, 55978.]**

(b) If it is shown to be impracticable to produce the certificate of exportation required under paragraph (a)(1) of this section, the district director may accept other satisfactory evidence of exportation, or may take a bond to secure the production of such certificate or other evidence. A bond shall also be taken to secure the production of the foreign shipper's declaration required by paragraph (a)(2) of this section if it is not filed at the time of entry.

(c) Articles claimed to be exempt from duty under item 802.20, 802.30, or 802.40,[62a] Tariff Schedules of the United States (19 USC 1202), may be returned free of duty without formal entry and without regard to the requirements of paragraph (a) or (b) of this section if: **[TDs 53849, 55978, 75-235, 78-153.]**

(1) Prior to the exportation of such articles, an application on Customs Form 4455 (accompanied by an appropriate inventory, when required by law or by the district director) is filed with a declaration thereon that:

(i) Any right to drawback of Customs duties with respect to that shipment was waived;

(ii) Any internal revenue tax due has been paid and no refund thereof will be sought; and

(iii) The merchandise was identified, registered, and exported in accordance with the regulations set forth in §§ 10.8 (d), (f), (g), and (h), governing the exportation of articles sent abroad for repairs, and

(2) Upon return, a duplicate Customs Form 4455 (with accompanying inventory where one was required) is filed.

§ 10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.

(a) In connection with each entry of articles exported for scientific or educational purposes and returned under item 802.10, Tariff Schedules of the United States,[63] the following shall be required, irrespective of the value of the shipment: **[TDs 46295, 55978]**

(1) A certificate of exportation on Customs Form 3311; **[TD 74-242.]**

(2) A declaration by the foreign shipper in the same form as that prescribed in § 10.66(a)(2) but stating that such articles were sent from the United States solely for temporary scientific or educational use and describing the specific use to which they were put while abroad. **[TDs 53399, 54056, 54183.]**

(3) A declaration of the ultimate consignee in substantially the following form:

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[61] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: * * * Exhibition or use connection with any circus or menagerie * * *." (Item 802.20, Tariff Schedules of the United States.)

[62] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: * * * Exhibition or use at any public exposition, fair, or conference * * *." (Item 802.30, Tariff Schedules of the United States.)

[62a] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: * * * In the case of horses, use for racing." (Item 802.40, Tariff Schedules of the United States).

[63] "Articles, when returned after having been exported for use temporarily abroad solely for any of the following purposes, if imported by or for the account of the person who exported them: Exhibition, examination, or experimentation, for scientific or educational purposes * * *." (Item 802.10, Tariff Schedules of the United States.)

District No.——, Port of ——————————, District Director's Office, ————, 19——.

I, ——————————, declare that the several articles described in the annexed entry are, to the best of my knowledge and belief, the identical articles exported from the United States on the ——— day of —————, 19——, by ——————— (Actual shipper) address ——————————, for the account of ——————————, address ——————————that they are returned to ——————————, address ——————————, for the account of ——————————, address ——————————that the said articles were exported solely for temporary scientific or educational purposes and for no other use abroad than for exhibition, examination, or experimentation; that they are being returned without having been changed in condition in any manner, except by reason of their bona fide use as follows:

(Describe change in condition)

(Ultimate consignee)

(b) If it is shown to be impracticable to produce the certificate of exportation required by paragraph (a)(1) of this section, the district director may accept other satisfactory evidence of exportation. The district director may take a bond to secure the subsequent production of any of the evidence or documents required by paragraph (a) of this section which are not available at the time of entry.

(c) If, prior to the exportation of articles claimed to be exempt from duty under item 802.10, Tariff Schedules of the United States, an application on Customs Form 4455 (accompanied by an appropriate inventory when, in the discretion of the district director, such inventory is deemed necessary) was filed and the merchandise was identified, registered, and exported in accordance with the regulations set forth in § 10.8 (d), (f), (g), and (h) governing the exportation of articles sent abroad for repairs, such articles may be returned for the account of the exporter free of duty without formal entry, without regard to the requirements of paragraphs (a) and (b) of this section, upon the filing of the duplicate Customs Form 4455 (with accompanying inventory, if one was required), and a declaration of the ultimate consignee in substantially the form set forth in paragraph (a)(3) of this section. **[TDs 53849, 55978.]**

Theatrical Effects, Motion-Picture Films, Commercial Travelers' Samples, and Tools of Trade[1]

§ 10.68 Procedure.

(a) Theatrical scenery, properties, and effects, motion-picture films (including motion-picture films taken aboard a vessel for exhibition only during an outward voyage and returned for the same purpose during an inward voyage on the same or another vessel), commercial travelers' samples, and professional books, implements, instruments, and tools of trade, occupation, or employment (see § 148.53 of this chapter), of domestic or foreign origin, taken abroad may be returned without formal entry and without payment of duty if an exportation voucher from a carnet, when applicable, or an application on Customs Form 4455 was filed and the merchandise was identified as set forth in § 10.8, before exportation of articles. Articles exported under cover of an A.T.A. carnet (where the carnet serves as the control document) may, in accordance with this paragraph, be returned without entry or the payment of duty. If Customs Form 4455 is utilized, commercial travelers' samples, professional books, implements, instruments, and tools of trade, occupation, or employment may be returned with either an informal entry or a declaration on Customs Form 3299; theatrical scenery, properties, and effects and motion-picture films may be returned only with an informal entry. When articles other than those exported by mail or parcel post are examined and registered at one port and exported through another port, the district director may require proof of exportation in those cases where the carnet or Customs Form 4455 does not reflect that these articles were exported under Customs supervision. In the case of commercial travelers' samples taken abroad for temporary use, except where exportation involves certification of a carnet, district directors may waive examination of the samples at the time of exportation. When motion-picture films are to be taken aboard a vessel for exhibition only during an outward voyage and are to be returned for the same purpose during an inward voyage on the same or another vessel, district directors may waive examination and supervision at the time of exportation. When theatrical scenery, properties, and effects are taken abroard in sealed carload lots by rail for temporary use, the cars must be sealed by U.S. Customs officers for entry at any Canadian or Mexican port where U.S. Customs officers are stationed. Application and examination before the time of exportation is waived if a Customs Form 4455 is filed with the U.S. Customs officer in the appropriate Canadian or Mexican port, and that officer examines the articles before they are released from foreign customs custody by the foreign customs officer. **[TDs 28471, 30524, 31602, 51810, 55555, 55779, 56427, 69–146, 75–41, 82–49, 82–116.]**

(b) When any such articles are to be returned to the United States from a contiguous foreign country in which a United States Customs officer is stationed, the articles may be presented to such officer with the duplicate copy of the application for examination and comparison with the descriptive list. Upon completion of such examination, the packages containing the articles shall be corded and sealed or forwarded in cars sealed by Customs officers and shall be manifested in the same manner as personal baggage. Articles so treated shall be released upon arrival in the United States and removal of the seals by Customs officers. **[TD 37002.]**

(c) When commercial travelers' samples consisting of raw cotton are taken to and returned from Canada, the application on Customs Form 4455 shall be executed in triplicate, two copies thereof to be returned to the traveler for surrender to the Customs officer on the return of the samples from Canada. (R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (19 U.S.C. 66, 1202 (General Headnote 11, Tariff Schedules of the United States) 1624))

§ 10.69 Samples to Great Britain and Ireland under reciprocal agreement.

Descriptive lists of samples taken to Great Britain and Ireland by commercial travelers of the United States under the joint declarations of December 3 and 8, 1910 (State Department treaty series 552), shall be required in triplicate, verified by the affidavit of the commercial traveler before a Customs officer, and shall show that the samples

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[1] T.D. 75–41, 40 FR 6646, Feb. 13, 1975.

samples are for use as models or patterns for the purpose of obtaining orders and not for sale and that the lists contain a full description of the articles. One copy shall be retained and the others shall be delivered to the commercial traveler—one for the identification of the samples on their return to the United States and one for the use of the foreign customs authorities. The latter copy must have been attested by a consular officer of the country concerned in the United States. **[TDs 28645, 31136, 31537, 34421.]**

Animals and Birds

Cross Reference: For regulations with respect to recognition of breeds and purebred animals see 9 CFR Part 151.

§ 10.70 Purchased animals for breeding purposes; declaration; certificate.

(a) In connection with the entry of purebred animals for breeding purposes under item 100.01, Tariff Schedules of the United States,[64] a declaration shall be filed showing that the importer is a citizen of the United States and that the animals are imported specially for breeding purposes.[65] If the declaration can be executed by the importer at the time of entry, the declaration shall be included and subscribed to on the face of the entry document in the following form: **[Abs. 40845, CD 245. TDs 31147, 32776, 44754, 53336, 55978, 68-154.]**

I ——————————— declare that I am a citizen of the United States; that the animals described on entry No. ——— entered at the port of ——————— on ————————are imported by me specially for breeding purposes; and that they are the same animals described on the certificate or certificates of pedigree presented to cover this importation.

Dated ——————————

Signed ——————————

(b) No claim for free entry shall be allowed in liquidation of the entry until the district director has received from the Department of Agriculture a certificate that the animal is purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed. Importers are required by regulation of the Department of Agriculture to make application for a certificate of pure breeding to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, on ANH Form 17-338 before the animal will be examined as required by 9 CFR 151.7. Application for the certificate must be executed by the owner agent, or importer and filed at a port of entry designated in the regulations of the Department of Agriculture for the importation of animals (9 CFR 92.3). However, applications for certificates for dogs (other than dogs for handling livestock regulated under 9 CFR 92.18) and cats may be filed either at a designated port of entry or at any other port where Customs entry is made. The regulations of the Department of Agriculture prescribing the requirements for the issuance of certificates of pure breeding provide that all animals imported under such regulations must be accompanied to the port at which examination is to be made by certificates of pedigree and transfer of ownership in order that identification may be accomplished, and that, if such animals are moved from such port prior to the presentation of such certificates and transfers, such action shall constitute a waiver of any further claim to certification under such regulations. **[TDs 53336, 55681, 78-99.]**

(c) In the cases of cats and dogs arriving at Canadian border ports, Customs officers and employees are hereby authorized and directed to make the examination required by such regulations of the Department of Agriculture. Customs officers and employees are also authorized and directed to make such examinations at the ports of New York and Boston, provided the dog or cat is brought into the United States by a passenger. At all airports, Customs officers shall make the examination of dogs and cats, whether or not accompanied by the owners, if there is no inspector of the Department of Agriculture stationed there or on duty at the time of arrival. (Sec. 486, 46 Stat. 725, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1486; item 100.01, Tariff Schedules of the United States) **[TDs 54120, 55681.]**

§ 10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.

(a) The animal may be released from Customs custody upon the furnishing by the importer of a bond on Customs Form 7551 or 7553 for the production within 6 months of (1) a certificate of pure breeding issued by the Department of Agriculture, and (2) the declaration required by § 10.70(a) submitted in letter form if such declaration was not filed at the time of entry. The release of the animal from customs custody requires the presentation of the pedigree certificate and evidence of transfer of ownership in accordance with the regulations of the Department of Agriculture mentioned in § 10.70(b). **[TDs 31147, 31518, 36468, 38011, 44754, 49882, 52111, 53336, 68-154.]**

(b) Such bond shall be canceled only upon the production of the required evidence or on payment of duties.

(c) In cases where the pedigree certificate and evidence of transfer of ownership have been presented in accordance with the regulations of the Department of Agriculture, the importer, if he so elects, may, in lieu of giving a bond, deposit estimated duties and file a stipulation with the district director within 10 days after the date of entry to produce the declaration and certificate of pure breeding within 6 months from the date of entry, whereupon the liquidation of the entry shall be suspended. (See § 113.42 of this chapter.) **[TDs 53336, 74-227.]**

(d) If the pedigree certificate and evidence of transfer of ownership were not presented in accordance with such regulations of the Department of Agriculture, a deposit of estimated duties, in addition to the regular entry bond, shall be required.

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[64] "Animals (except black, silver, or platinum foxes, and any fox which is a mutation, or type developed therefrom), certified to the collector of customs by the Department of Agriculture as being purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed, imported by a citizen or agency of the United States specially for breeding purposes, whether intended to be used by the importer himself or for sale for such purposes * * *." (Item 100.01, Tariff Schedules of the United States.)

[65] The fact that such animals may be used incidentally for driving or working purposes will not exclude them from free entry if they are imported primarily for breeding purposes.

(e) When a passenger arriving in the United States with one or more dogs or cats and with the required certificates of pedigree and transfers of ownership in his possession furnishes a properly executed declaration as required by § 10.70(a) along with an application to the Department of Agriculture on ANH Form 17-338 for a certificate of pure breeding, the entry of the animal(s) as duty-free under item 100.01, Tariff Schedules of the United States, may be made on the passenger's baggage declaration if the value of the animals does not exceed $500. In such case the entry shall be supported by a bond on Customs Form 7551 or 7553 for the production within 6 months of a certificate of pure breeding. The bond shall be without surety or cash deposit unless the district director of Customs on the basis of information before him finds that a bond with surety or a cash deposit is necessary to protect the revenue. **[TD 68-79, 68-154, 78-99.]**

(f) Under conditions corresponding to those set forth in paragraph (e) of this section, dogs and cats having a value or not to exceed $250 that arrive unaccompanied by the importer may be entered on an informal entry (Customs Form 5119-A) under item 100.01, Tariff Schedules of the United States, without a deposit of estimated duty when supported by a bond on Customs Form 7551 or 7553 which may be without surety or cash deposit to the same extent and under the same conditions as provided in paragraph (e) of this section. The declaration required by § 10.70(a) shall be submitted in letter form. (Sec. 486, 46 Stat. 725, as amended, sec. 101, 76 Stat. 72; 19 U.S.C. 1486; item 100.01, Tariff Schedules of the United States) **[TD 68-79, 68-154, 78-99.]**

§ 10.72 Horses and mules for immediate slaughter.

Horses or mules claimed to be entitled to free entry under item 100.70, Tariff Schedules of the United States,[66] shall be admitted free of duty upon the submission of a declaration in connection with the entry stating that the animals are being imported solely for slaughter, provided the district director is satisfied from an examination of the animals and such other investigation as he deems necessary that no other use is intended. **[TDs 53268, 55978.]**

§ 10.73 Cows for dairy purposes.

Claim for the reduced rate of duty on cows for dairy purposes under item 100.50, Tariff Schedules of the United States,[67] shall be made at the time of entry. There shall be filed in connection with the entry a certificate of the ultimate consignee that the animals were imported in good faith for dairy purposes and that they have actually been delivered to a dairy, farm, or other place suitable for dairy operations, the address of which shall be stated. If the ultimate consignee is not the importer of record, the latter also shall file a certificate executed by himself that the animals are being imported in good faith for dairy purposes. **[TDs 48057, 53268, 53399, 55978.]**

Tariff Act of 1930, paragraph	Description of products	Rate of duty
701	Cattle weighing less than 200 pounds each or 700 pounds or more each	1 1/2¢ per lb.
	Provided, That not more than 200,000 head of cattle weighing less than 200 pounds each entered in the 12-month period beginning Apr. 1 in any year, and not more than 400,000 head of cattle weighing 700 pounds or more each (other than cows imported specially for dairy purposes) entered in any such period, but not more than 120,000 head of such cattle weighing 700 pounds or more each entered in any 3-month period beginning Apr. 1, July 1, Oct. 1, or Jan. 1 within any such 12-month period, shall be dutiable at 1 1/4 cents per pound; and any of the foregoing cattle not subject to that rate of duty shall be dutiable at	2 1/2¢ per lb.
	(Second proviso obsolete.)	

§ 10.74 Animals straying or driven across boundary for pasturage; offspring.

(a) When domestic animals for which free entry is to be claimed under item 100.03, Tariff Schedules of the United States,[68] are driven across the boundary for pasturage purposes, the owner shall file with the district director a descriptive list stating the number of animals, their sex, age, and marks or brands, together with a written statement that the animals therein described are being taken abroad for temporary pasturage purposes only. **[TDs 40740, 55978.]**

(b) Upon the return of such animals within 8 months, entry shall be required and there shall be filed in connection therewith a declaration in the following form:

I, ———————————, do solemnly declare that I am a resident of —————————; that the animals now being returned to the United States are ——— (Number) of the identical animals described in the list filed with the district director at the port of ——————————————— on the ———— day of ————————, 19——; and that ——— (Number) of their offspring accompany said animals.

(c) Animals which have strayed across the boundary line may be returned under the above-mentioned provision of law, together with their offspring, without entry if brought back within 30 days; otherwise entry shall be required: *Provided*, That the owner of any such animal shall report its return to the nearest Customs officer and hold it for such inspection and treatment as may be deemed necessary by a representative of the Agricultural Research Service of the Department of Agriculture and any such animal found not to have been so reported or held shall be subject to seizure and forfeiture pursuant to section 545, Title 18, United States Code. **[TD 55039.]**

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[66] "Horses and mules: Imported for immediate slaughter * * *." (Item 100.70, Tariff Schedules of the United States.)

[67] "Cattle: Weighing 700 pounds or more each: Cows imported specially for dairy purposes * * *." (Item 100.50, Tariff Schedules of the United States.)

[68] "Animals, domesticated, straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pasturage purposes only, together with their offspring: If brought back to the United States within 8 months * * *." (Item 100.03, Tariff Schedules of the United States.)

§ 10.75 Wild animals and birds; zoological collections.

When wild animals or birds are claimed to be free of duty under item 852.20, Tariff Schedules of the United States,[69] there shall be filed in connection with the entry a declaration of the ultimate consignee on Customs Form 3321, showing that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. The fact that an animal or bird may have been sent on approval shall not preclude free entry under said item 852.20 when it is actually accepted as a part of the zoological collection and so exhibited. **[TDs 16576, 53399, 55978.]**

§ 10.76 Game animals and birds.

(a) The following classes of live game animals and birds may be admitted free of duty for stocking purposes under the provisions of item 100.05, Tariff Schedules of the United States,[70] without reference to the United States Customs Service, if the requirements of the Fish and Wildlife Service, Department of the Interior, have been complied with. **[TDs 44467, 46255, 49199, 55978.]**

Animals

1. Cervidae, commonly known as deer and elk.
2. Leporidae, commonly known as rabbits.
3. Sciuridae, commonly known as squirrels.

Birds

1. Anatidae, commonly known as ducks and geese.
2. Gallinae, commonly known as turkeys, grouse, pheasants, partridges, and quail.
3. Otididae, commonly known as bustards.
4. Tinamidae, commonly known as tinamous.

(b) Application for the free entry of other live animals or birds under item 100.05, Tariff Schedules of the United States shall be referred to the United States Customs Service for consideration. Animals imported for fur-farming purposes shall not be admitted free of duty under that paragraph.

(c) There shall be filed in connection with the entry a declaration by the importer or his agent on Customs Form 3313. If the declaration is signed by an officer of the Federal Government or a State government, or by a person who shall present to the district director an order for the shipment given him by the Federal or State government, a statement as to the place of delivery shall not be required.

(d) Game animals and birds killed in foreign countries by residents of the United States, if not imported for sale or other commercial purposes, may be admitted free of duty without entry, if the person has no merchandise requiring a written declaration upon the filing of a declaration on Customs Form 3315. No bond or cash deposit to insure the destruction or exportation of the plumage of such birds shall be required. **[TD 52351.]**

§ 10.77 Skins bearing wool or hair as fur skins.

(a) The following types of skins bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, may be classified as fur skins under item 123.00 of those schedules,[71] without special supporting evidence: **[TDs 51637, 52223, 55978.]**

Lambskin

Astrakhan, Bagdad, Bessarabian, Bombay, Broadtail, Caracul, Chekiang, Persian, Salzfells, Shiraz.
Chinese, Indian, Karakul, Krimmer, Moire, Mosul, Multan, Southwest African, Tsining.

Other Skins

Guanaquito.

(b) If any skins, other than those named in paragraph (a) of this section, bearing wool or hair of a kind described in schedule 3, part 1C, Tariff Schedules of the United States, are claimed to be more specifically provided for as fur skins in item 123.00 of those schedules, the importer shall file in connection with the entry a declaration that the skins are to be used for no other purpose than as fur skins, and free entry shall be dependent upon a report of the appraiser that no substantial part of the wool or hair on the skins can economically be removed otherwise than as an unsought residue and used or disposed of in competition with pulled or clipped wool, and that they are suitable for use, without removing the wool or hair from the skins, in the manufacture or trimming of clothing, driving gloves, or other articles in which the imported skins will be used as furs. **[TDs 52223, 53268, 55978.]**

Products of American Fisheries

§ 10.78 Entry.

(a) Except as prescribed in § 10.79(d), no entry shall be required for fish or other marine products taken on the high seas by vessels of the United States or by residents of the United States in undocumented vessels owned in the United States when such fish or other products are brought into port by the taking vessel, or are transferred at sea to another fishing vessel of the same fleet and brought into port. **[TDs 49682, 49966, 55384.]**

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[69] "Articles imported for use in any scientific public collection for exhibition for scientific or educational purposes: * * * Wild animals (including birds and fish) * * *." (Item 852.20, Tariff Schedules of the United States.)

[70] "Animals, game, imported to be liberated in the United States for stocking purposes * * *." (Item 100.05, Tariff Schedules of the United States.)

[71] "Skins bearing wool or hair of a kind described in subpart C of part 1 of schedule 3, raw or not dressed, if suitable for use as furs without the removal of the wool or hair from the skins (except removal resulting in an unsought residue of wool or hair incidental to processing of the skins for use as furs) and imported to be so used * * *." (Item 123.00, Tariff Schedules of the United States.)

(b) An American fishery, within the meaning of schedule 1, part 15A, Tariff Schedules of the United States, is defined as a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have the right by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof. **[TDs 53399, 55978.]**

(c) The employment of citizens of a foreign country by an American fishery is permissible but the purchase by an American fishery of fish or other marine products taken by citizens of a foreign country on the high seas or in foreign waters will subject such fish or other marine products to treatment as foreign merchandise.

(d) Products of an American fishery shall be entitled to free entry although prepared, preserved, or otherwise changed in condition, provided the work is done at sea by the master or crew of the fishery or by persons employed by and under the supervision of the master or owner of the fishery. Fish (except cod, haddock, hake, pollock, cusk, mackerel, and swordfish) the product of an American fishery landed in a foreign country and there not further advanced than beheaded, eviscerated, packed in ice, frozen and with fins removed, shall be entitled to free entry, whether or not such processing is done by the American fishery. Products of an American fishery prepared or preserved on the treaty coasts of Newfoundland, Magdalen Islands, or Labrador, as such coasts are defined in the Convention of 1818 between the United States and Great Britian, shall be entitled to free entry only if the preparation or preservation is done by an American fishery.[72] **[CD 219. CADs 132, 133, 124 Fed. Rep. 107. TDs 29143, 31223, 31534, 32138, 34188, 39494, 39822, 40089, 40725, 40728, 41057, 42137, 43988, 44124, 55978.]**

§ 10.79 Proof.

(a) When products of American fisheries claimed to be free of duty under schedule 1, part 15A, Tariff Schedules of the United States, are imported from a foreign country or its territorial waters by the taking vessel, or are shipped, except as provided for in § 10.78(a), to the United States by the master, owner, or agent of the taking vessel otherwise than in taking vessel, a declaration of the master of the taking vessel verified by at least two members of the crew, shall be required in connection with the entry. Additional proof may be required if doubt exists. If any of the products have been landed or transshipped in a foreign country, there shall also be filed in connection with the entry an additional statement as to what, if any, change has been made in the condition of the fish or other marine products since their taking and where such change occurred. If the products are fresh or frozen fillets, fresh or frozen fish steaks, or fresh or frozen slices of fish substantially free of bone (including any of the foregoing divided into sections) which have been processed in a foreign country or its territorial waters, a further statement shall be made in connection with the entry as to the residence status of all persons whose labor was used in the processing of such products. The declaration required of the master, verified by two members of the crew, shall be in the following form: **[TDs 32138, 40728, 41057, 53268, 53399, 55384, 55978, 66-182.]**

____
(Date)

I ——————————, master, and ———— ——————— (Two members of the crew) crew of the fishing vessel ————————, declare that the —— ——————— (Describe the product) now on board the said vessel, lately arrived from a fishing voyage from ———— ——————— (Place of departure for United States) was caught by us, the said captain and crew, with the assistance of men, boats, and gear, hired for the purpose, and is the product of the American fisheries, and that no portion of said cargo was purchased or obtained otherwise than by the above means.

____
(Master)

____
(Crewmember)

____
(Crewmember)

(b) If fish or other marine products are shipped to the United States by one in a foreign country who has purchased them from the master, owner, or agent of the taking vessel, the declaration required by paragraph (a) of this section shall be executed by the master and two members of the crew of the American fishing vessel for the entire quantity discharged at the foreign port and shall be filed in connection with the entry together with a declaration of the purchaser or his agent. Such declaration of the purchaser or agent shall be attached to the invoice and be in the following form: **[TDs 47880, 53268, 53399, 54056, 66-182.]**

I, ——————, agent of the ——————at the port of ——————, do hereby declare that ———— —————did receive from the following-named American fishing vessels ————— pounds of —————— and ————— pounds of —————— and that ———— pounds thereof in ———— cases went forward in ——— ——— (Carrier) consigned to ——————at ————— ———, and that the above products have not been changed in condition after taking except as shown below:

Dated ——————

____

(Agent for)

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[72] "Subpart A headnotes:

"1. An American fishery, for the purposes of this subpart, is a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have right, by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof.

"2. None of the items in this subpart shall apply to fish, fresh, chilled, or frozen in the form of fillets, steaks, or slices substantially free of bone (including any of the foregoing divided into sections), if produced in a foreign country, or its territorial waters, in whole or in part with the use of the labor of persons who are not residents of the United States.

"Item 180.00—Products of American fisheries (including fish, shellfish, and other animal oils), which have not been landed in a foreign country, or which, if so landed, have been landed solely for transshipment without change in condition. * * *

"Item 180.10—Fish (except cod, cusk, haddock, hake, mackerel, pollock, and swordfish), the product of American fisheries, landed in a foreign country and there processed by removal of heads, viscera, or fins, or by chilling or freezing, or by any combination of these processes, but not otherwise processed. * * *

"Item 180.20—Products of American fisheries, prepared or preserved by an American fishery on the treaty coasts of Labrador, Magdalen Islands, and Newfoundland, as such coasts are defined in the convention of 1818 between the United States and Great Britain * * *" (Schedule 1 part 15A, Tariff Schedules of the United States.)

Vessels and registry	Article	Pounds received	Date received	Pounds shipped	Number of cases	Nature of change in residence of laborers, condition, place where so changed. (See Note.)

Note: Insert in this column the name of country or, if the processing was done on board a vessel outside the territorial waters of any country, the name and registry of the vessel and its location at the time the processing occurred. If fish fillets, steaks, or slices are involved, insert also a statement as to the residence of all laborers engaged in the processing.

(c) If a marine-animal oil otherwise dutiable under schedule 1, part 14C, Tariff Schedules of the United States, entered for consumption or withdrawn from warehouse for consumption is claimed to be free of duty under schedule 1, Part 15A, Tariff Schedules of the United States, as a product of American fisheries, there shall be filed in connection with the entry, in addition to the documents required by paragraph (a) of this section a declaration of the master of the American fishery giving the names of the vessels which took and captured the whales, fish, or marine animals from which such oil was produced and stating whether such vessels at the time of taking the whales, fish, or marine animals were documented under the laws of the United States. No vessel shall be considered to be the taking vessel within the meaning of this section unless the whales, fish, or marine animals from which the oil was produced were taken and captured directly by such vessel with the use of no other boats than those carried as its regular equipment. **[TD 55978.]**

(d) No marine-animal oil which would be subject to duty if classifiable under a provision in schedule 1, part 14C, Tariff Schedules of the United States, shall be admitted without entry, notwithstanding the provisions of § 10.78(a). **[TD 55978.]**

Salt For Curing Fish

§ 10.80 Remission of duty; withdrawal; bond.

Pursuant to section 313(e), Tariff Act of 1930[74] imported salt entered for warehouse may be withdrawn under bond for use in curing fish. Upon proof that the salt has been so used, the duties thereon shall be remitted. In no case shall the quantity of salt withdrawn exceed the reasonable requirements of the case. Withdrawal shall be made on Customs Form 7506. Each withdrawal shall contain the statement prescribed for withdrawals in § 144.32 of this chapter. When the withdrawal is made by a person other than the importer of record, a bond on Customs Form 7561 or other appropriate form for the production of proof of proper use shall be filed. Upon acceptance of the bond, a withdrawal permit shall be issued on Customs Form 7506. **[TDs 39304, 53399, 53792, 73-175.]**

§ 10.81 Use in any district.

(a) Salt withdrawn under bond for use in curing fish on the shores of navigable waters may be used for such purpose in any district, but the evidence of use in such cases shall be submitted through the district director for the district where the salt was used. **[TD 53268.]**

(b) If desired, salt to be used in curing fish on shore in another district than that in which it is warehoused in bond may be withdrawn under a transportation entry and shipped in bond to a port in the district in which it is to be used, at which port it may be entered on Customs Form 7519 with Customs Form 7506 attached to show withdrawal of the salt for use in curing fish. Thereupon, and upon the filing of a bond on Customs Form 7561 or other appropriate form when necessary, such salt may be used without being sent to a bonded warehouse or public store. In such a case the proof of use shall be filed at the latter port. (Sec. 313 (e), (1), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (i))

§ 10.82 Proof of use.

(a) Proof that the salt withdrawn for use in curing fish has been so used shall be as follows: **[TD 53268.]**

(1) A certificate of the person making the withdrawal that the salt has been actually used in curing fish taken by vessels of the United States licensed to engage in the fisheries or in curing fish on the shores of navigable waters of the United States, giving the names of the vessels, tonnage, names of masters, the approximate quantity of fish cured thereby, and the locality in the district where cured if cured on shore; **[TD 66-93.]**

(2) A certificate of the master and of at least one other person employed on board any vessel during any voyage on which it is claimed that any part of the salt so withdrawn for curing fish was used, that the salt delivered to the vessel by the person making the withdrawal was actually used in curing fish taken by such vessel; and **[TD 66-93.]**

(3) The certificates of at least two persons actually employed in curing fish on shore (if two or more were so employed) if any part of such salt was so used, stating the quantity of salt used in curing fish on shore and where cured, that it was used in curing fish taken by American fishermen, and the approximate quantity of fish cured. **[TD 66-93.]**

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[74] "Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted." (Tariff Act of 1930, sec. 313 (e); 19 U.S.C. 1313(e)) (Sec. 313 (e), (i), 46 Stat. 649, as amended; 19 U.S.C. 1313 (e) (i))

(b) If the person making the withdrawal is actually employed in curing the fish on shore, a certificate of one other person so employed will be sufficient. (Sec. 313, 46 Stat. 694; 19 U.S.C. 1313) **[TD 66-93.]**

§ 10.83 Bond; cancellation; extension.

(a) The proofs required by § 10.82 shall be presented to the district director holding the bond before the first day of January next after the date of withdrawal, and if it shall appear to his satisfaction that the entire quantity of salt covered by the bond has been duly accounted for, either by having been used in curing fish or by the payment of duty, the district director may cancel the bond, but in his discretion he may first require additional evidence in corroboration of the proof produced.

(b) On application of the person making the withdrawal, the period of the bond may be extended 1 year so as to allow the salt to be used during the time of extension in curing fish with the same privileges as if used during the original period. (Sec. 313 (e), (i), 46 Stat. 694, as amended; 19 U.S.C. 1313 (e), (i))

Automotive Products

§ 10.84 Automotive vehicles and articles for use as original equipment in the manufacture of automotive vehicles.

(a) When total exemption from duty on automotive products is claimed on the ground that an importation consists of "Canadian articles" as defined in General Headnote 3 (d), Tariff Schedules of the United States, this fact must be established to the satisfaction of the chief Customs officer at the port of entry. Such Customs officer may accept as satisfactory evidence that an article is a "Canadian article" a certificate executed by the exporter in the approximate form specified in paragraph (b) of this section, subject to any verification he may deem necessary, or he may satisfy himself of such fact by other means if, taking into consideration the kind and value of the goods and the circumstances of importation, he deems a certificate unnecessary. **[TD 56529.]**

(b)(1) When no material which is not the growth, product, or manufacture of Canada or of the United States was used at any stage in the production of the imported article, a certificate in the following form may be accepted as evidence that the commodity is a "Canadian article":

> The product covered by the ————————(Describe the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Canadian origin at the time it was subscribed is the growth, product, or manufacture of Canada. No foreign materials (other than those which are the growth, product, or manufacture of the United States) were used at any stage in the production of this product, i.e., either in its immediate production or in the production of any intermediate product used at any stage in the chain of production in Canada which resulted in this product.

(2) When any material which is not the growth, product, or manufacture of Canada or of the United States was used at any stage in the manufacture of the imported article, a certificate in the following form may be accepted as evidence that the commodity is nevertheless a "Canadian article":

The product covered by the ———————(Describe the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Canadian origin at the time it was subscribed is the product of Canada. There were used in its production in Canada

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(Number of units and description) of foreign materials (other than those which are the growth, product, or manufacture of the United States) having an actual purchase price (or, if not purchased, an export value) of —— ———————————— per unit of quantity plus, if not included in such unit values, ——————————, the cost per unit of bringing such foreign materials to Canada.

(3) If such Customs officer is satisfied that the revenue will be protected adequately thereby, he may accept in lieu of the certificate specified in subparagraph (2) of this paragraph a certificate in the following form when the merchandise covered thereby does not contain foreign materials (other than those which are the growth, product, and manufacture of the United States) in excess of 50 percent of the final appraised value in the United States:

> The product covered by the ———— (Describe above the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Canadian origin at the time it was subscribed is the product of Canada. There were or may have been used in its production in Canada foreign materials (other than those which are of the growth, product, and manufacture of the United States).
>
> It is impracticable to ascertain the exact number of units of foreign material, if any, used in its production or the purchase price and cost of transportation to Canada of such material, but to the best of (my) (our) (its) knowledge and belief the purchase price and cost of transportation to Canada of such foreign materials as were or may have been used would not exceed 50 per centum of the final appraised value in the United States determined in accordance with section 402 or 402a, Tariff Act of 1930, as applicable, of the product brought into the United States covered by this certificate.

(4) The certificates described in subparagraphs (2) and (3) of this paragraph shall not, of course, be accepted if the statements therein contained on their face make it evident that the importation is not a "Canadian article" within the meaning of General Headnote 3(d), Tariff Schedules of the United States.

(5) If more than one kind of article is covered by a certificate provided for in subparagraph (1), (2), or (3) of this paragraph, the information required by the certificate shall be shown with respect to each kind. When more than one kind of material of other than Canadian or United States origin is used in the production of an article covered by such a certificate, the certificate shall state the number of units, description, and purchase price plus, if not included therein, cost of transportation to Canada, per unit of each such kind of material.

(6) A certificate conforming to subparagraph (1), (2), or (3) of this paragraph shall be accepted as evidence of the facts alleged therein only if (i) there is annexed thereto a copy of the commercial invoice or bill of lading covering the articles or other documentary matter which identifies the articles to which the certificate pertains, (ii) the certifi-

cate is signed by the manufacturer or producer of the articles to which it pertains, or by the person who exported the articles from Canada, and (iii) it clearly appears that such copy or other documentary matter was annexed to the certificate when it was signed.

(c) When an importer makes an entry, or withdrawal from warehouse, for consumption of articles for use as "original motor-vehicle equipment" as that term is defined in Schedule 6, Part 6, Subpart B, Headnote 2(a), Tariff Schedules of the United States, he shall file in connection therewith his declaration that the articles are being imported for use as original equipment in the manufacture in the United States of the kinds of motor vehicles specified in the head and furnish the name and address of the motor vehicle manufacturer. A copy of the written order, contract, or letter of intent shall be attached to the importer's declaration except that if the district director of Customs is satisfied that a copy of the written order, contract, or letter of intent will be made available by the importer or ultimate consignee for inspection by Customs officials upon request during a period of 3 years from the date of such entry or withdrawal from warehouse, the production of such documents will not be required. Proof of use need not be furnished. **[TDs 67-83, 76-211.]**

(d) If, after a Canadian article has been accorded the status of original motor-vehicle equipment, it is decided to divert the article from its intended use in the manufacture in the United States of motor vehicles, the importer or other person deciding to divert the article from such intended use shall give notice in writing of that decision to the district director of Customs of the district where entry was made or where the offices of the importer are located and either make arrangements for its destruction or exportation under Customs supervision or pay duties in accordance with Schedule 6, Part 6, Subpart B, Headnote 2(d)(ii). If such article is not destroyed or exported under Customs supervision or the duties paid, the article, or its value, shall be subject to forfeiture. (77A Stat. 11, as amended, 325, as amended; 19 U.S.C. 1202 (Gen. Hdnte. 3(d), Sch. 6, Pt. 6B, Hdnte. 2)) **[TD 67-83.]**

Master Records, And Metal Matrices

§ 10.90 Master records and metal matrices.

(a) An importer desiring to avail himself of the privilege of importing master records, or metal matrices obtained therefrom, under item 724.30, Tariff Schedules of the United States,[81] shall file an application with Headquarters, U.S. Customs Service. If the application has not been approved when the merchandise involved is imported, liquidation of the entry covering the importation shall be suspended until advice is received from Headquarters, U.S. Customs Service of the action taken in the matter. **[TDs 45877, 55978.]**

(b) The importer (and the manufacturer, if the two are not identical) shall prepare a statement and agreemen describing (1) the use to be made of the records or matrices, (2) the means adopted to identify them and the products manufactured with their use, and (3) the accounts kept, and agreeing (i) that the plant and accounts shall be open to the inspection of customs officers at all reasonable times, and (ii) that the importer will notify the district director at the port where the records or matrices were imported and pay promptly an amount equal to the duties ordinarily collectible thereon in the event he uses or intends to use them in the United States otherwise than in the manufacture of sound records for export purposes. The importer (and the manufacturer, if the two are not identical) shall maintain plant and accounting records relating to the master records and metal matrices for 5 years from the date of the related entry of the merchandise. **[TDs 53268, 79-159.]**

(c) Consumption entries covering importations under item 724.30, Tariff Schedules of the United States, shall be filed at a port in the Customs district in which the factory where the articles will be used is located. **[TD 55978.]**

(d) There shall be filed in connection with each such entry a declaration of the importer setting forth his name and business address; that he is an exporter of sound records; that the master records or metal matrices are imported for use in the manufacture by or for him of sound records for export purposes; and that sound records produced therefrom will not be used or sold for use in the United States. **[TD 53268.]**

(e) The invoice filed with the entry shall contain or be supported by a detailed statement of the cost of production, in the country where made, of each master record or metal matrix covered thereby. **[TDs 53399, 53638, 53869.]**

(f) A bond on Customs Form 7563 shall be filed in connection with each entry. Such bond shall contain an added condition that the principal shall export all the sound records made with the use of imported master records, or metal matrices obtained from master records, covered by the entry and that the principal shall not sell, expose for sale, or use any of the said articles contrary to law and the regulations issued thereunder; or in default thereof that the obligors shall pay an amount equal to the lawful duties which would have accrued on merchandise.

(g) If and when the application is approved, entries already filed and future entries shall be liquidated in due course without the assessment of duty, but liability on bonds given with the entries shall be discontinued with respect to any article covered thereby only upon payment of liquidated damages in an amount equal to the duties which would have accrued had the master records or metal matrices been imported for use otherwise than in the manufacture of sound records for export purposes, or upon satisfactory proof that the master records or metal matrices obtained therefrom have been exported or destroyed under Customs supervision, and that all sound records made with the use of such articles have been exported.

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[81] "Sound recordings on discs of soft wax (master records), or metal matrices obtained therefrom, for use in the manufacture of sound records for export * * *." (Item 824.30, Tariff Schedules of the United States.)

Wools and Hair of the Camel for Use in Manufacturing Floor Coverings and Other Articles

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel[82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs form 7501 and filed with the entry documentation listed in section 142.3(b) of this chapter before the merchandise shall be released, unless the merchandise is to be entered for warehouse. If the merchandise is to be entered for warehouse, the entry summary shall be made on Customs form 7502 and filed with the entry documentation listed in section 142.3(b) of this chapter. In either case, Customs form 7501 or 7502, as appropriate, shall serve as both the entry and the entry summary. **[TDs 49658, 53792, 55194, 55978, 56298, 73–175, 79–221.]**

(b) When the entry summary is made on Customs form 7501, it shall contain the following endorsement:

> Above merchandise entered under bond for use in the manufacture of ————————(camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, papermakers' felts, or pressed felt for polishing plate and mirror glass) under the provision of item 306.00, Tariff Schedules of the United States

The endorsement shall be signed by the obligor on the bond. **[TDs 55194, 55978, 56298, 79–221.]**

(c) When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the article enumerated shall be made on Customs form 7506 in the name of the obligor on the bond. (Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, headnote 6, Tariff Schedules of the United States) **[TDs 55978, 79–221.]**

(d) Wool or hair of the camel which has been released from Customs custody shall not be restored to a Customs status from which it thereafter could be entered or withdrawn under the provisions of item 306.00, TSUS. **[TD 79–221.]**

§ 10.92 Bond; form; penalty.

(a) At the time of making entry for consumption or withdrawal from warehouse of the wool or hair there shall be filed a single entry bond on Customs Form 7547, unless the transaction is charged against a term bond on Customs Form 7547, or other appropriate form. The penalty of the single entry bond shall be in the amount equal to the value of the wool or hair, as set forth in the entry, plus double the estimated duties, as determined at the time of entry. The penalty of the term bond shall be $10,000, or such larger amount as the district director deems necessary to the protection of the revenue.[84] **[TDs 49658, 55978.]**

(b) A single entry or term bond shall be filed by each manufacturer, processor, or dealer entering or withdrawing the wool or hair under bond or receiving it by transfer under bond in its imported or other form. **[TDs 43905, 55565.]**

(c) Only one term bond shall be required from each manufacturer, processor, or dealer. If wool or hair is entered or withdrawn at any port other than that at which the original term bond is filed, a copy of such bond shall be filed at such other port. **[TDs 39668, 56537.]**

(d) The district director of Customs may cancel liquidated damages not in excess of $50,000 incurred under a bond mentioned in this section upon payment of less than the full amount, or without the payment of any amount if no loss of revenue is involved, as he may deem appropriate under the law and in view of the circumstances. Application for cancellation of the liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter. (Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States) **[TDs 53919, 70–249, 73–308.]**

§ 10.93 Records of receipt of wool or hair.

(a) Each manufacturer, processor, or dealer who enters or withdraws wool or hair under bond, or who receives wool or hair by transfer under bond, shall keep records which will show: **[TD 49658.]**

(1) In the case of entry or withdrawal, the quantity, entered clean content, identity, and description of the wool or hair entered or withdrawn under bond; and

(2) In the case of receipt by transfer, the quantity, description, and date of transfer certificate (see § 10.95 (d)) of the wool or hair received by transfer under bond, and the name and address of the transferor from whom received.

(b) Every lot of wool or hair entered or withdrawn under bond, or received by transfer under bond, shall be marked or stored until put into process in such manner as to insure the identification of the lot with the entry, withdrawal, or transfer certificate. (Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

§ 10.94 Manufacturing records.

(a) Each manufacturer or processor shall keep the records specified in this section with respect to products and substances resulting wholly or in part from bonded wool or hair. Such records shall be kept by 3-month periods of manufacture on a calendar-year basis and shall show: **[TDs 49658, 50000, 53268, 53336, 53399, 55565, 55978.]**

(1) The inclusive dates of each period of manufacture;

(2) The quantity, identity, and description of the wool or hair not previously processed by the reporting manufacturer or processor put into process during the period;

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[82] Except with reference to entry or withdrawal, the term "wool or hair" means wool or hair in its imported or any other form, that is, wool or hair which has been entered or withdrawn under the provisions of item 306.00, Tariff Schedules of the United States, and any product or substance composed wholly or in part of, and resulting from any processing of, such wool or hair under bond, but does not include articles made from such wool or hair and enumerated in such item 306.00.

[83] "Wools provided for in item 306.10, 306.11, 306.12, or 306.13, all other wools of whatever blood or origin not finer than 46s (except carbonized wools), and hair of the camel provided for in item 306.40, 306.41, 306.42, or 306.43, entered by a dealer, manufacturer, or processor for use only in the manufacture of camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, or papermaker's felts; and Karakul wools and other wools of whatever blood or origin not finer than 40s, entered by a dealer, manufacturer, or processor for use only in the manufacture of pressed felt for polishing plate and mirror glass * * *." (Item 306.00, Tariff Schedules of the United States, as amended.)

[84] "* * * a dealer, manufacturing, or processor may be relieved of liability under his bond with respect to any wool or hair entered under item 306.00 which is transferred in its imported or any other form to another dealer, manufacturer, or processor who has filed a bond to insure that the merchandise so transferred shall be used only in the manufacture of the articles enumerated in item 306.00; * * *." (Schedule 3, part 1C, headnote 4(c).)

(3) The quantity and description of all intermediate products, stocks in process, and wastes (including noils) not described in the preceding subdivision which are put in to process during the period;[86]

(4) The quantity and description of the final products resulting from the processing by the manufacturer or processor; the quantity by weight of the wool or hair contained therein; and

(5) The quantity of any wastes (including noils) incurred which remain on hand upon completion of the period of manufacture. Such wastes shall be accounted for under the following designations:

Noils—
Soft (including all wastes, except noils, burr wastes, card strippings, and sweepings, produced after the scouring of the wool or hair and before the spinning operation).
Hard (including all wastes, except sweepings, produced in and after the spinning operation but before completion of the weaving operation or, in the case of the manufacture of articles enumerated in item 306.00, Tariff Schedules of the United States, which are not woven, before the completion of the enumerated article).
Fly (including all wastes other than noils and hard and soft wastes as above specified).

White soft wastes and white threads shall be accounted for separately.

(6) The records of each manufacturer or processor shall contain a detailed inventory of all wool and hair on hand at the close of each abstract period.

(b) When the manufacturer of any enumerated articles spins the yarns used in the manufacture thereof, he shall also keep records showing the quantity and description of all the yarns so spun. **[TD 55565.]**

(c) Within 30 days from the end of each calendar quarter the manufacturer or processor, liable under a bond for wool or hair, shall submit to the district director where his original bond has been filed an abstract of his records on Customs Form 7531-B. The abstract shall be supported by copies of the processor's returns (showing the processing losses and net returns) for any bonded wool or hair processed outside the plant of the manufacturer or processor submitting such abstract. When a bonded manufacturer or processor has not manufactured or processed any bonded wool or hair during the 3-month period he shall promptly so advise the district director. **[TD 55565.]**

(d) Each such abstract shall bear the following certificate of an authorized officer or member of the firm: **[TDs 55565, 55978.]**

I, ————, certify that this document is a true and correct abstract of our records of manufacture; that such records have been kept in the manner prescribed by § 10.94, Customs Regulations.

All wastes reported herein as resulting from operations in our plant resulted in the usual course of manufacture of articles enumerated in item 306.00, Tariff Schedules of the United States, except as follows:

____

____

All wool or hair delivered from our plant during the period covered by this abstract, under a transfer certificate or otherwise, has been listed herein.

Dated ————————

____

____
(Title)

(e) In the case of preliminary processors, such as pullers, sorters, washers, scourers, or carbonizers, a transfer certificate on Customs Form 7531-A, revised, covering wool or hair processed and transferred by any one of them, shall be submitted to the district director as an abstract of his records of manufacture, when such processor has received custody (not ownership) of the wool or hair from a transferor who has been relieved by the district director of liability under bond for the use of the wool or hair in accordance with § 10.95(d). (Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States) **[TDs 53268, 53399, 55565.]**

§ 10.95 Records and reports of enumerated articles of wool or hair delivered; transfer certificates.

(a) Each manufacturer, processor, or dealer shall keep records showing the quantity, description, and wool or hair content of all wool or hair (including samples) and enumerated articles delivered from his premises pursuant to transfer under bond, purchase, consignment, or otherwise. Such records shall also show the date of delivery from the premises and the name and address of the transferee, purchaser, consignee, or other person to whom delivery is made. The records shall show also the exact designation under which any wool or hair was transferred, sold, consigned, or otherwise delivered and the price paid or agreed to be paid, or if there has been no sale or contract of sale, the price that the manufacturer, processor, or dealer would have received or was willing to receive for the wool or hair if sold in the ordinary course of trade. The total amounts of the deliveries within the purview of this paragraph, except of enumerated articles, shall be included in the totals shown on the abstract prescribed in § 10.94(c). **[TDs 49658, 55565.]**

(b) Within 30 days after the delivery of wool or hair from the premises, otherwise than under a transfer certificate provided for in paragraph (d) of this section, the manufacturer, processor, or dealer making such delivery shall file a declaration with the district director in whose district his original bond is filed, showing the quantity and description of merchandise delivered, the date of delivery, and the name and address of the person to whom delivered.

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[86] This applies only to materials carried over from a previous period and does not require the keeping of records of materials which are put back into process in the same period in which they resulted.

The declaration shall show the particulars as to price specified in paragraph (a) of this section, whether representative samples have been retained, whether the merchandise resulted in the usual course of manufacture of enumerated articles, and whether such merchandise could have been used (with or without further preparation) in the manufacture of enumerated articles. **[TDs 53268, 55565.]**

(c) The manufacturer, processor, or dealer shall retain for Customs inspection a representative sample of not less than one pound of each kind of merchandise for which a report is required by § 10.96 (a) or (b). Such sample shall be properly identified in his records with the report covering such merchandise and shall be available for inspection by proper officers of the Government at all reasonable times for a period of 3 months after its delivery. **[TD 55565.]**

(d) When the ownership of wool or hair is transferred by one bonded manufacturer, processor, or dealer to another manufacturer, processor, or dealer the transfer shall be covered by a transfer certificate on Customs Form 7531-A, revised. When a transferor transfers custody (not ownership) of wool or hair, no transfer certificate is required unless the transferor in writing specifically requests the district director to be relieved of his liability under his bond.[86a] When the transfer is made by a dealer, Customs Form 7531-A shall be supported by copies of processors' invoices or reports (showing processing losses and net returns) for any wool or hair processed outside the custody of the dealer. Such transfer certificates shall be filed by the dealer within 30 days after the date of the transfer. When the transfer is made by a manufacturer or processor, it shall be filed within the quarterly period allowed for the filing of the abstract on which the transfer is required to be reported. When the original bonds of both the transferor and the transferee are on file in the office of one district director, the transfer certificate shall be filed with that officer in duplicate. When the original bond of the transferee is on file in another Customs district, the transfer certificate shall be filed in triplicate. The transferor shall not be relieved from liability under his bond until the transferred wool or hair has been charged against the bond of the transferee. **[TDs 50000, 55565.]**

(e) The establishments of bonded manufacturers, processors, and dealers, and the originals of all books and records kept by such manufacturers, processors, and dealers relating to bonded wool or hair shall be available at all reasonable times for inspection by proper officers of the Government. **[TD 55565.]**

(f) All records required to be kept by manufacturers, processors, and dealers relating to bonded wool or hair shall be retained for a period of 3 years after the imported wool or hair has been used in the manufacture of the articles enumerated in item 306.00, Tariff Schedules of the United States. Where the wool or hair has been charged against the bond of a transferee, the records of the transferor shall be retained for a period of 3 years from the date of transfer. (Sec. 101, 76 Stat. 72 Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States) **[TDs 54442, 55565, 55978.]**

§ 10.96 Reports of use or transfer for use in violation of bond.

(a) When a bonded manufacturer or processor uses any bonded wool or hair otherwise than in the manufacture of the articles enumerated in item 306.00, Tariff Schedules of the United States, or in preparation for such manufacture, he shall, within 30 days after such use, make a report thereof to the district director in whose district his original bond is filed, showing the quantity and description of the wool or hair so used, the use to which it has been put, the date of such use, whether such wool or hair resulted in the usual course of manufacture of the enumerated articles, and whether it could have been used in the usual course of manufacture of such articles.[87] **[TDs 49658, 55978.]**

(b) A manufacturer, processor, or dealer shall likewise report to such district director within 30 days any transfer of bonded wool or hair for use otherwise than in the manufacture of the enumerated articles. The report shall show the quantity and description of the wool or hair, the date of transfer, the name and address of the transferee, and, if known, the specific use to which the wool or hair is to be put. Such a report of a manufacturer or processor shall state whether the wool or hair resulted in the usual course of manufacture of the enumerated articles and whether it could have been used in the manufacture of such articles.

(c) Whether merchandise has resulted in the usual course of manufacture shall be determined with respect to the bona fide and normal operations of the plant at which the merchandise resulted. Merchandise resulting in the usual course of manufacturing which cannot be used (with or without further preparation) in the usual course of the manufacture of enumerated articles shall be the quantity of the merchandise resulting in the usual course of manufacture in excess of the quantity thereof which is used in the bona fide and normal operations at the plant at which it resulted. In determining, for the above-mentioned purposes, whether operations are bona fide and normal, consideration may be given to the conditions at the plant and in the industry as a whole. **[TD 53268.]**

(d) The report required by this section shall be in the following form and shall be filed in triplicate: **[TD 56157.]**

[86a] Normally, when wool or hair is transferred, for scouring, blending, etc., the liability therefor under bond will remain with the actual owner until a change of ownership is effected.

[87] "* * * every dealer, manufacturer, or processor who has given a bond pursuant to the provisions of item 306.00 shall report any transfer or use of merchandise contrary to the terms of his bond, within 30 days after such transfer or use, to the district director in whose district the bond is filed, and for failure to so report such dealer, manufacturer, or processor shall be liable to a penalty (in addition to the duties provided for) equal to the value of the merchandise so transferred or used at the time and place of such transfer or use; * * *." (Schedule 3, part 1C, headnote 5(c), Tariff Schedules of the United States.)

Date————————————

Report of Wool or Hair Transferred or Used Out of Bond Under Section 10.96, Customs Regulation

Name of dealer or manufacturer————————————

Date of transfer or use	If transferred, transferee and address	Quantity	Exact description under which wool or hair was transferred or used	If known, state specific use to which put

I, ——————————————————————, of the firm of ——————————, do hereby state that wool or hair reported herein was transferred or used by me as indicated; that a representative sample (not less than one pound) of such wool or hair has been retained for our records that such wool or hair (did/did not)* result in the usual course of manufacture of articles enumerated in item 306.00, TSUS, and it (could/could not)* have been used in the manufacture of such articles.

Term bond No. ————

Manufacturer or dealer————————————

Per————————————

Title ————————————Consumption No.————————————

Transferred from ———— on ———————— under

Warehouse No.————————————

Withdrawal No.————————————

For cashier's use only	Wool in its imported form sample submitted herewith	For collector's use only	For comptroller's use only	Remarks
	Net weight, lbs............................. Yield, %... Clean yield, lbs............................ Item No —— Rate .... Estimated duty..............................			

* Cross out inapplicable words.

(Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 56157, 29 FR 5473, Apr. 23, 1964]

§ 10.97 Duties, exportation or destruction.

(a) All wool or hair in its imported form used or transferred for use otherwise than in the manufacture of the enumerated articles shall be assessed with duty in accordance with items 306.01, 306.02, 306.03, and 306.04, Tariff Schedules of the United States.[88] As to merchandise resulting from the use of the imported wool or hair in the usual course of manufacture of the enumerated articles and which is used or transferred for use otherwise than in the manufacture of the enumerated articles, no duty shall be assessed unless such merchandise can be used (with or without further preparation) in the ordinary commercial practice in the usual course of manufacture of such enumerated articles, except in the case of white soft wastes, white thread, and noils which shall be dutiable at seven-eighths of the regular duties when they are used or transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they can be used (with or without further preparation) in the manufacture of such enumerated articles. Wastes and other merchandise which have not resulted in the usual course of manufacture of the enumerated articles are dutiable when used or transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they could have been used with or without further preparation. **[TDs 49658, 55978.]**

(b) Wool or hair, except wool or hair in its imported form, shall be credited against the covering bond if exported or destroyed under customs supervision. (Sec. 101, 76 Stat. 72; Sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States)

Fluxing Material

§ 10.98 Copper-bearing fluxing material.

(a) For the purpose of this section, ores usable as a flux or sulphur reagent, mentioned in the provision for such ores in item 602.25, Tariff Schedules of the United States,[89] shall include only ores which contain by weight not over 15 percent copper. **[TDs 46096, 55978.]**

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[88] "Any of the wool or hair entered as provided for in item 306.00, if used, or transferred for use, in its imported or any other form in any manner otherwise than in the manufacture of the articles enumerated in the said item:

"Item 306.01 White soft wastes and white threads resulting during the usual course of regular duties applicable to noils.

"Item 306.02 Noils resulting during the usual course of manufacture of such enumerated articles * * * 87.5 percent of the manufacture of such enumerated articles * * * 87.5 percent of the regular duties applicable to wool or hair in like condition.

"Item 306.03 Other merchandise resulting during the usual course of manufacture of such enumerated articles which cannot be used (with or without further preparation) in the usual course of manufacture of such enumerated articles * * * Free.

"Item 306.04 Wool or hair other than a waste or byproduct described in any of the three foregoing items * * * The regular duties applicable to wool or hair in the condition in which so used or transferred." (Items 306.01, 306.02, 306.03, and 306.04, Tariff Schedules of the United States.)

(b) [Reserved]

(c) There shall be filed in connection with the entry of such copper-bearing ores, either for consumption or warehouse, a declaration of the importer that the material is to be used for fluxing purposes only. In the case of a consumption entry, the estimated tax shall be deposited at the time of entry. Liquidation of entries shall be suspended pending proof of use for fluxing purposes as hereinafter provided. **[TDs 53268, 55978.]**

(d) Samples of the material shall be taken in accordance with the commercial method in effect at the plant if to be used in a bonded smelting warehouse, or in accordance with §§ 151.52 through 151.55 of this chapter if entered for consumption, and the copper content thereof shall be determined by the Government chemist in accordance with the assay. **[TDs 55978, 73-175.]**

(e) The management of the smelting or converting plant shall file with the appropriate Customs officer at Perth Amboy, N.J., a statement based on its records of operation for each quarterly period showing for each furnace or converter the total quantity of material charged during each month or part thereof of each quarter, the total quantity of material used for fluxing purposes, and the quantity of imported ores used for fluxing purposes for which free entry was claimed under the above-mentioned provision, together with copper content of such imported ores computed in accordance with the Government assay. If the quantity of ores used for fluxing purposes in any furnace or converter during any month or part thereof of any quarter is in excess of 25 percent of the charge of such furnace or converter, the quarterly statement shall be accompanied by an explanation of the necessity for using such quantity for fluxing purposes. **[TDs 53268, 55978.]**

Ethyl Alcohol

§ 10.99 Importation of ethyl alcohol for nonbeverage purposes.[90]

(a) If claim is made by an importer other than the United States or a governmental agency thereof for the classification of ethyl alcohol of 185 degrees or more of proof under item 427.88, Tariff Schedules of the United States,[91] the importer or his agent shall file in connection with the entry a declaration that the alcohol is to be used for nonbeverage purposes only.

(1) Customs shall release the alcohol upon deposit of estimated duty, if any, and without payment of the internal revenue tax, only upon receipt of an application on Alcohol, Tobacco and Firearms (ATF) form 2609 (5110.16) submitted by the proprietor of the distilled spirits plant and approved by the appropriate Alcohol, Tobacco and Firearms officer. The ATF form 2609 (5110.16) allows the transfer of the alcohol under internal revenue bond to the bonded premises of the proprietor's plant for nonbeverage use.

(2) Before release of the alcohol from Customs custody, the Customs officer shall prepare four copies of ATF form 236 (5110.27) when the alcohol is to be removed in packages, or five copies when the alcohol is to be removed by pipeline or by bulk conveyance. The ATF form 236 (5110.27) should be appropriately modified to show:

(i) Serial number and date of the ATF form 2609 (5110.16);

(ii) Customs port of entry and entry number;

(iii) Consignee;

(iv) Kind of spirits;

(v) Name of the importer;

(vi) Country of origin (manufacture or production);

(vii) Method of transfer;

(viii) Elements of bulk gauge (if any);

(ix) Quantity to be transferred;

(x) Customs seals used (if any);

(xi) Date of release; and

(xii) Signature and title of the Customs officer instead of the proprietor.

When shipments are made in tank cars or trucks, the Customs officer shall report details of the gauge of each car or truck separately. In the case of barrels, drums, or similar portable containers, he shall show details of the gauge on three copies of ATF form 2630 (5110.45). The Customs officer also shall note on ATF form 236 (5110.27) the rate of Customs duty paid and the rate which would have been applicable had the alcohol been imported for beverage purposes.[92] Upon compliance with Customs entry requirements and completion of the appropriate ATF forms, the Customs officer shall release the alcohol for transfer to the distilled spirits plant. The Customs officer shall retain one copy of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any); forward one copy of ATF form 236 (5110.27) to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, at the address shown on ATF form 2609 (5110.16); and forward the original and remaining copy (or copies) of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any) to the Alcohol, Tobacco and Firearms officer at the distilled spirits plant.

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[89] "For an aggregate amount not to exceed 15,000 tons of copper content in ores which contain by weight not over 15 percent copper and which are entered in any calendar year for use as a flux or sulphur reagent in copper smelting or converting * * * Free of duty on copper content." (Item 602.25, Tariff Schedules of the United States.)

[90] "*Imported distilled spirits.* Imported distilled spirits of 185 degrees or more of proof (or spirits of any proof imported for any purpose incident to the requirements of the national defense) may, under such regulations as the Secretary or his delegate shall prescribe, be withdrawn from customs custody, and transferred to the bonded premises of a distilled spirits plant, for nonbeverage use, without payment of the internal revenue tax imposed on imported distilled spirits by section 5001. Such spirits may be redistilled or denatured and may, without redistillation or denaturation, be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits." (Sec. 5232 Internal Revenue Code of 1954; 26 U.S.C. 5232)

"*Withdrawal of distilled spirits from Customs custody free of tax for use of the United States.* Distilled spirits may be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, under such regulations as may be prescribed by the Secretary or his delegate." (Sec. 5313, Internal Revenue Code of 1954; 26 U.S.C. 5313)

[91] "Alcohols, monohydric, unsubstituted. * * * Ethyl for nonbeverage purposes" (Item 427.88, Tariff Schedules of the United States.)

[92] "Ethyl alcohol for beverage purposes * * *." (Item 168.34, Tariff Schedules of the United States.)

(3) Before a shipment in a tank car or truck is released, a Customs officer shall seal all openings affording access to the alcohol with Customs seals in a manner which prevents unauthorized removal of the alcohol.

(4) When the distilled spirits plant is equipped with suitable dock facilities, the alcohol, subject to all requirements of the Customs laws and regulations, (i) may be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant; or (ii) may be transferred directly into empty storage tanks on the premises, if the tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets are locked. In all pipeline transfers, the alcohol shall be transferred under Customs supervision, gauged immediately by a Customs officer, and then released for deposit in the distilled spirits plant. The Customs officer shall report the details of the gauge for internal revenue purposes on ATF form 236 (5110.27). Copies of the form shall be distributed as prescribed in subparagraph (2) of this paragraph.

(b) If ethyl alcohol is to be withdrawn from Customs custody by the United States or any governmental agency thereof for its own use for non-beverage purposes, either before release under the entry without the deposit of estimated duties, if any, and internal revenue tax, or before release in accordance with the provisions of § 141.102(d) of this chapter (when deposit of estimated duties or taxes is not required), an appropriate permit on ATF form 1444 (5150.33), shall be filed with the district director. The permit also may cover future withdrawals at that port, pursuant to appropriate entry in each case. The Customs officer who gauges the alcohol shall prepare three copies of a report of gauge on ATF form 2629 (5110.26). The alcohol then may be released for shipment to the governmental agency named in the permit, ATF form 1444 (5150.33). The Customs officer shall make the appropriate notation of the withdrawal on ATF form 1444 (5150.33), and shall state the permit number of the ATF form 1444 (5150.33) involved on each copy of ATF form 2629 (5110.26). The Customs officer shall retain the original of the ATF form 2629 (5110.26) with the permit on ATF form 1444 (5150.33), and shall forward one copy of ATF form 2629 (5110.26) to the governmental agency involved and one copy to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

(c) Paragraphs (a) and (b) of this section are not applicable to withdrawal free of tax on the entry of ethyl alcohol for nonbeverage purposes from the Virgin Islands. Provisions for the release free of tax of distilled spirits, denatured distilled spirits, and products containing denatured spirits produced and withdrawn in the Virgin Islands are found in subpart O of Part 250, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 250, Subpart O).

(d) Upon completion of the application procedures outlined in this section, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any, and without the assessment of internal revenue tax. **[TD 78-329]**

United States Government Importations

§ 10.100 Entry, examination, and tariff status.

Except as otherwise provided for in § § 10.101, 10.102, 10.104, 141.83(c)(8), 141.102(d), or elsewhere in this chapter, importations made by or for the account of any agency or office of the United States Government are subject to the usual Customs entry and examination requirements. In the absence of express exemptions from duty, such as are contained in item 830.00, 831.00, 832.00, 833.00, 834.00, 835.00, 836.00, or other items in the Tariff Schedules of the United States (19 U.S.C. 1202) providing for free entry, such importations are also subject to duty. **[TDs 52871, 53336, 53399, 53780, 54971, 55978, 71-139, 73-175, 77-23.]**

§ 10.101 Immediate delivery.

(a) *Shipments entitled to immediate delivery.* Shipments consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, shall be regarded for purposes of these regulations as shipments the immediate delivery of which is necessary within the purview of section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)). **[TDs 71-139, 77-23.]**

(b) *Immediate delivery applications.* The shipments described in the preceding paragraph may be released upon the filing of immediate delivery applications on Customs Form 3461 as set forth in Subpart A of Part 142, of this chapter. Such applications may be limited to particular shipments or may cover all shipments imported by the Government agency making the application. They may be approved for specific periods of time or for indefinite periods of time, provided in either case they are supported by blanket carrier's certificates and stipulations as provided for in paragraph (c) of this section.

(c) *Blanket carrier's certificates and stipulations.* Before the release of a shipment under an immediate delivery permit, evidence of the right of the applicant to make entry for the articles shall be furnished the district director in accordance with the provisions of § § 141.11 and 141.12 of this chapter. A blanket carrier's certificate and release order on Customs Form 7529 may be accepted by a district director for all shipments for the same consignee which may be brought to a port by a carrier during any period stated on the form.

(d) *Bond.* No bond shall be required in support of an immediate delivery application provided for in this section if a stipulation in the form as set forth below is filed with the district director in connection with the application:

I, ———, ——— (Title), a duly authorized representative of the

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(Name of United States Government department or agency) stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and all other laws and regulations, relating to the release and entry of merchandise will be observed and complied with in all respects.

____

(Signature)

(e) *Timely entries required.* If proper entries for consumption for importations released under these regulations are not filed within a reasonable time, appropriate steps shall be taken to insure the prompt filing of such entries.

§ 10.102 Duty-free entries.

(a) *Invoice or declaration.* No invoice or other declaration of the shipper shall be required for shipments expressly exempt from duty as provided in item 830.00, 831.00, 832.00, 833.00, 834.00, 835.00, 836.00, or other items in the Tariff Schedules of the United States (19 U.S.C. 1202) providing for free entry. However, the importing Government agency or office shall present any invoice, memorandum invoice, or bill pertaining to the merchandise in its possession or available to it, or, if no such invoice or bill is available, a pro forma invoice prepared in accordance with § 141.85 of this chapter, setting forth adequate information for examination and determination of the dutiable status of the merchandise. In addition, the district director shall only admit articles free of duty under item 832.00, 833.00, or 834.00, Tariff Schedules of the United States (19 U.S.C. 1202), upon the receipt of a certificate executed in the manner and form described in paragraph (b) of this section. **[TD 77-23.]**

(b) *Certification.* One of the following certificates executed by a duly authorized officer or official of the appropriate Government agency or office is required for free entry of articles under item 832.00, 833.00, or 834.00, Tariff Schedules of the United States (19 U.S.C. 1202). The certificates may be printed, stamped, or typewritten on the Customs entry or withdrawal form, Customs Form 7501 or 7506, or on a separate paper attached to the entry or withdrawal form filed by the Government agency or office, provided the certification is clearly and unmistakably identified with the articles covered by the entry or withdrawal.

(1) *Articles for military departments, item 832.00, TSUS.* I certify that the procurement of this material constituted an emergency purchase of war material abroad by the Department of the (name of military department), and it is accordingly requested that such material be admitted free of duty pursuant to item 832.00, Tariff Schedules of the United States.

(Name)

(Title), who has been designated to execute free-entry certificates for the above-named department.

(Grade or Rank) (Organization)

(2) *Articles for the General Services Administration, item 833.00, TSUS.* Pursuant to item 833.00, Tariff Schedules of the United States, I hereby certify that the above-described materials are strategic and critical materials procured under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b).

(Name)

(Title), General Services Administration, who has been duly authorized to execute the above certificate.

(3) *Articles for the Energy Research and Development Administration, item 834.00, TSUS.* I certify to the Secretary of the Treasury that the above-described materials are source materials purchased abroad, the admittance of which is necessary in the interest of the common defense and security, in accordance with item 834.00, Tariff Schedules of the United States.

(Name)

(Title), who has been authorized to execute free-entry certificates for the Energy Research and Development Administration.

(c) *Release of shipments.* Shipments for which free entry has been or will be claimed under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), shall be released after only such examination as is necessary to identify them.

(d) *Entry in Government name.* All materials for which free entry is claimed under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), shall be entered, or withdrawn from warehouse, for consumption in the name of the Government department whose representative executes the certificate set forth in § 10.102(b) unless exemption from this requirement is specifically authorized by the regional commissioner of Customs.

§ 10.103 American goods returned.

(a) *Certificate required.* Articles entered, or withdrawn from warehouse, for consumption in the name of an agency or office of the United States Government (with the exception of military scrap belonging to the Department of Defense) may be admitted free of duty under item 800.00, Tariff Schedules of the United States (19 U.S.C. 1202), upon the filing of a certificate on the letterhead of the agency or office in the following form in lieu of other entry documentation: **[TD 77-23.]**

I hereby certify:

1. That the following articles imported in the ————————————— (Name of Carrier) at the port of ————————————— (Port) on ————————— (Date) consist of returned products which are the growth, produce, or manufacture of the United States, and have been returned to the United States without having been advanced in value or improved in condition by any process of manufacture or other means, and that no drawback has been or will be claimed on such articles, and that the articles currently belonging to and are for the further use of ——————————————— (Agency or Office)

Number of containers	Bill of lading No.[1]	General description of articles

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[1] If shipment arrives in the United States on a commercial carrier.

2. That the shipment does not contain military scrap.

3. That the shipment is entitled to entry under item 800.00 of the Tariff Schedules of the United States free of duty.

4. That I am a military installation transportation officer having knowledge of the facts involved in this certificate.

or

I am an officer or official authorized by ———————— (Agency or Office) (Whichever is applicable) to execute certificate.

(Name)

(Rank and branch of service or Agency or Office)

(b) *Combined certificate when articles are intermingled.* When articles claimed to be free under item 800.00 and other articles claimed to be free under item 832.00, 833.00, or 834.00 of the Tariff Schedules of the United States (19 U.S.C. 1202), are intermingled in a single shipment in a manner which precludes separation for the purpose of making claims for free entry under the separate categories, all the articles may be covered by a combined certificate which follows the requirements of § 10.102(b) and paragraph (a) of this section.

(c) *Execution of certificate.* The certificate required by paragraph (a) of this section may be executed by any military installation transportation officer having knowledge of the facts or by any other officer or official specifically designated or authorized to execute such certificates by the importing Government agency or office. If the merchandise arrived on a commercial carrier, the entry shall be supported by evidence of the right to make it.

§ 10.104 Temporary importation entries for United States Government agencies.

The entry of articles brought into the United States temporarily by an agency or office of the United States Government and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (19 C. 1202), shall be made on Customs Form 7501. No bond shall be required if the agency or office files a stipulation in the form set forth in § 141.102(d) of this chapter. In those cases in which the provisions of Schedule 8, Part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), are not met, however, the district director will proceed as if a bond had been filed to cover the particular importation. Articles temporarily imported by a Government agency or office under this section are entitled to immediate delivery under the procedures set forth in § 10.101. **[TDs 52871, 53780, 54971, 55554, 55978, 73-175, 77-23.]**

§ 10.105 [Reserved] [TD 77-23.]

Wheat

§ 10.106 Wheat, unfit for human consumption; other wheat.

There shall be filed in connection with each entry covering wheat entered under item 130.65, Tariff Schedules of the United States, as "wheat, not fit for human consumption" a declaration of the importer setting out whether any part of the importation is to be used with or without blending with other wheat in the manufacture of products for human consumption. If it is declared that no part of the shipment is to be so used, a further declaration shall be made stating the use to which the wheat is to be put. When it is shown by the declaration that the wheat is to be used in the manufacture of products for human consumption, it shall be classified as "wheat, other", under the provisions of item 130.70, Tariff Schedules of the United States. However, when the declaration states that the wheat is to be used otherwise than in the manufacture of products for human consumption, the procedure outlined in T.D. 47577 shall be followed, and in the absence of other controlling factors, the wheat shall be classified as "wheat, not fit for human consumption" under the provisions of item 130.65, Tariff Schedules of the United States, if it contains 30 percentum or more of damaged kernels. **[TDs 53249, 53309, 55978.]**

Note: Treasury Decision 53309, 18 FR 4705, Aug. 8, 1953, provides as follows:

The declaration required by § 10.106 may be made by the actual importer or by a nominal consignee having actual knowledge of the facts.

The use of wheat in the manufacture of a product for human consumption within the meaning of § 10.106 includes use in the manufacture of ethyl alcohol, monosodium glutamate, edible flour, or edible starch.

Rescue and Relief Work

§ 10.107 Equipment and supplies; admission.

(a) There shall be admitted without entry and without the payment of duty or any tax imposed upon or by reason of importation of any article described in section 322(b), Tariff Act of 1930, as amended,[99] subject to compliance with the following conditions: **[TD 53336.]**

(1) Before importation or as soon thereafter as possible, and in every case before the expiration of 10 days after importation, a report shall be made to the nearest Customs officer by the person in charge of sending the article from the foreign country, or by the person for whose account it was brought into the United States, stating the character, quantity, destination, and use to be made of the article.

(2) If practicable, the article shall be exported under Customs supervision. In any other case a report shall be made by the person in charge of the exportation as soon as possible after exportation to the Customs officer to whom the arrival was reported, stating the character, quantity, and circumstances of the exportation.

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[99] "(b) The Secretary of the Treasury may provide by regulation or instruction for the admission, without entry and without the payment of any duty or tax imposed upon or by reason of importation, of

"(1) Aircraft, equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft;

"(2) Fire-fighting and rescue and relief equipment and supplies for emergent temporary use in connection with conflagrations; and

"(3) Rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters.

Any articles admitted under the authority of this subsection and used otherwise than for a purpose herein expressed, or not exported in such time and manner as may be prescribed in the regulations or instructions herein authorized, shall be forfeited to the United States." (Tariff Act of 1930, sec. 322 (b), as amended; 19 U.S.C. 1322(b))

(b) In the case of each article admitted under paragraph (a) of this section, the district director shall satisfy himself as to whether the article was exported within a reasonable time, or that it has been properly expended or destroyed. If an article is so far destroyed, in connection with a use contemplated for it by section 322 (b) that it has only a salvage value, it shall not be required to be exported.

(c) Any article admitted under paragraph (a) of this section which is used in the United States otherwise than for a purpose contemplated for it by section 322(b), or which is not exported within 90 days after its arrival in the United States, or within such longer time as may be specially authorized by the district director or Headquarters, U.S. Customs Service, shall be seized and forfeited to the United States. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322(b))

Products Exported Under Lease and Reimported

§ 10.108 Entry of reimported articles exported under lease.

(a) Free entry shall be accorded under item 801.00, Tariff Schedules of the United States,[100] whenever it is established to the satisfaction of the district director that the article for which free entry is claimed was duty paid on a previous importation, is being reimported without having been advanced in value or improved in condition by any process of manufacture or other means, was exported from the United States under a lease to a foreign manufacturer, and is being reimported by or for the account of the person who previously imported it into, and exported it from, the United States. **[TDs 53620, 55978.]**

(b) There shall be filed in connection with the entry a statement specifying the port at which duty was previously paid on the article and the number and date of the previous entry; the date of exportation to the lessee abroad; the number and date of the export declaration; and the designation of the vessel or other carrier on which the article was exported. If such information is not filed at the time of entry, a bond as provided for in § 143.3 of this chapter shall be taken for its production. **[TD 73-175.]**

Strategic Materials Obtained by Barter or Exchange

§ 10.110 Strategic materials acquired as a result of barter or exchange of agricultural commodities or products.

(a) Upon notification by the Commodity Credit Corporation, or by another government agency designated by the Commodity Credit Corporation to act for it, of the name of an importer who has contracted with the Commodity Credit Corporation to barter or exchange agricultural products for strategic materials, and a description identifying a shipment to be made in compliance with such a contract, the district director shall accept an entry covering such shipment for the account of the importer claiming exemption from duty under item 836.00, under Customs supervision prior to the Tariff Schedules of the United States.[103] Upon submission to the district director of a certificate executed in the following form, the entry shall be liquidated free of duty under item 836.00, Tariff Schedules of the United States: **[TDs 54377, 55978.]**

I hereby certify that the above described materials covered by this certificate are strategic materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural commodities or products as provided for in section 303 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1692). Free entry under the provisions of item 836.00, Tariff Schedules of the United States, is claimed.

____
(Name)

____
(Title)

Who has been designated by Commodity Credit Corporation, or other government agency, under authority from the Commodity Credit Corporation, to make claim for free entry, and to execute certifications necessary to establish the right to exemption from duty.

(b) When the certification set forth in paragraph (a) of this section is not on a copy of the entry form, it must clearly and unmistakably identify the material covered by the entry.

Late Filing of Free Entry and Reduced Duty Documents[1]

§ 10.112 Filing free entry documents or reduced duty documents after entry.

Whenever a free entry or a reduced duty document, form, or statement required to be filed in connection with the entry is not filed at the time of the entry or within the period for which a bond was filed for its production, but failure to file it was not due to willful negligence or fraudulent intent, such document, form, or statement may be filed at any time prior to liquidation of the entry or, if the entry was liquidated, before the liquidation becomes final. See § 113.43(c) of this chapter for satisfaction of the bond and cancellation of the bond charge. **[TDs 55059, 74-227.]**

Instruments and Apparatus for Educational and Scientific Institutions

§ 10.114 General provisions.

(a) *Introductory provisions.* All references in §§ 10.114 through 10.118 to "TSUS" items, headnotes, schedules, or parts are references to items, headnotes, schedules, or parts of the Tariff Schedules of the United States. A public or private nonprofit institution established for educational or scientific purposes desiring to obtain free entry of an instrument or apparatus under item 851.60, TSUS, shall file an application for such entry in accordance with the requirements of § 10.115. If the application is made in accordance with applicable regulations, notice and opportunity to present views will be provided in accordance with 15 CFR 301.9, subject to 15 CFR 301.8. Each application shall be reviewed and a decision made thereon and published in the Federal Register in accordance with 15 CFR 301.11. An appeal from any decision may be taken to the U.S. Court of Customs and Patent Appeals on questions of law only within 20 days after publication of the decision in the Federal Register. **[TDs 67-50, 72-64, 78-99]**

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[100] "Articles, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, after having been exported under lease to a foreign manufacturer, and (2) reimported by or for the account of the person who imported it into, and exported it from, the United States * * *." (Item 801.00, Tariff Schedules of the United States.)

[103] "Articles for the Commodity Credit Corporation: Materials certified by it to the Commissioner of Customs to be strategic materials acquired by that agency as a result of barter or exchange of agricultural commodities or products * * *." (Item 836.00, Tariff Schedules of the United States.)

[1] T.D. 74-227, 39 FR 32015, Sept. 4, 1974.

(b) *Applications.* Applications (§ 10.115) shall be submitted in the English language.

(c) *Exclusion from duty-free entry under headnote 6(a), Part 4, Schedule 8, TSUS.* Articles to be considered for duty-free entry under items 851.60 and 851.65, TSUS, embrace only instruments, apparatus, and their repair components classifiable under the tariff items specified in headnote 6(a) of Part 4, Schedule 8, TSUS. The term "instruments and apparatus" does not include materials and supplies for use in connection with the operation of instruments or apparatus such as paper, cards, tapes, ink, recording materials, expendable laboratory materials, or other materials or supplies. Nor does the term include equipment used for the installation of instruments or apparatus, for construction or maintenance of buildings, for supporting activities of the qualifying institution, or for commercial purposes. **[TDs 72-64, 73-175, 78-99]**

(d) *Entry and liquidation*—(1) *Entry procedures.* If a claim is made in an entry that merchandise is entitled to duty-free classification under item 851.60, TSUS, the entry for the merchandise shall be accepted and a deposit of estimated duties shall be required unless a copy of Form ITA-338P, described in § 10.115, stamped by Headquarters, U.S. Customs Service as accepted for transmittal to the Department of Commerce is filed simultaneously with the entry. For bond requirements, see § 143.3 of this chapter.

(2) *Liquidation procedures.* Except as otherwise provided herein, liquidation of an entry with respect to which duty-free treatment under item 851.60, TSUS, is claimed shall be suspended for a period of 180 days from the date of entry. In the event that the district director of Customs concerned does not receive within this time a copy of Form ITA—338P, stamped as accepted for transmittal to the Department of Commerce, such merchandise shall be immediately classified and liquidated in the ordinary course, without regard to item 851.60, TSUS. With respect to entries for which an appropriate Form ITA—338P has been timely filed, liquidation shall be suspended until the official designated by the Secretary of Commerce has notified the district director of customs concerned of the final determination with respect to the application relating to the entered merchandise. **[TD 72-64, 78-99.]**

(3) *Procedure when merchandise is entered subsequent to final determination.* Whenever an institution defers entry, or withdrawal from warehouse, for consumption of merchandise until after it receives a favorable final determination with respect to the application relating to the merchandise, the importer shall file with the entry the copy of Form ITA—338P, stamped as described in subparagraph (1) of this paragraph, the institution's copy of the official's notification of final favorable determination, and proof that a bona fide order for the merchandise was placed on or before the 60th day after the favorable finding became final and conclusive. Liquidation in that case shall be made in accordance with item 851.60, TSUS. **[TDs 72-64, 78-99]**

§ 10.115 Application for duty-free entry of foreign instruments.

Form ITA—338P, "Request for duty-free entry of scientific instruments and apparatus" (copies may be obtained from the Director, Statutory Import Programs Staff, Department of Commerce, Commerce district offices, or Customs district offices), shall be used in the preparation of an application. This form shall be completed and filed in accordance with 15 CFR 301.3 and the instructions appearing on the form. **[TDs 67-50, 72-64, 78-99]**

§ 10.116 Processing of applications by the Commissioner of Customs.

(a) *Review and determination.* The Commissioner of Customs shall cause the date of receipt to be endorsed upon each copy of an application Form ITA—338P he receives. If the application appears to be complete in accordance with §§ 10.114 and 10.115, he shall cause an application number to be assigned to it. If he determines that the application is complete in accordance with §§ 10.114 and 10.115 he shall determine: **[TDs 67-50, 72-64, 78-99]**

(1) Whether the institution falls within the class of institutions provided for in item 851.60, TSUS; and

(2) Whether the article meets the requirements of headnotes 1 and 6(a), TSUS, and § 10.114(c).

If any of the Commissioner's determinations is in the negative, the application shall be found to be not in accordance with applicable regulations and shall be returned with a statement of the reason(s) for such findings.

(b) *Forwarding of applications.* If the Commissioner of Customs finds the application to be in accordance with applicable regulations, he shall forward one copy of Form ITA-338P to the Secretary of Health, Education, and Welfare, and four (4) copies of Form ITA-338P, including a copy that has been executed, to the official designated by the Secretary of Commerce. He shall retain an executed copy of Form ITA-338P and return the remaining copy of the form appropriately stamped as accepted for transmittal to the Department of Commerce, to the institution so that it may be filed with the district director of Customs of the district in which the merchandise has been or is being entered. **[TD 72-64, 78-99]**

(c) With respect to an entry for merchandise which is the subject of an application under these regulations, the applicant shall at the earliest possible date after receipt of the stamped copy of the application inform the official designated by the Secretary of Commerce of the entry number and date of entry, port of entry, the Customs district through which such merchandise has been entered, and the application number to which such entry relates. (19 U.S.C. 1202 (Gen. headnote 11, schedule 8, pt. 4, headnotes 1, 6).) **[TD 72-64.]**

§ 10.117 Notification to district director of final determination.

The district director of Customs for the district in which entry is made for merchandise with respect to which duty-free treatment is claimed under item 851.60, TSUS, shall be notified by the official designated by the Secretary of Commerce of the final disposition of the application covering such entry as soon as such final disposition is made by or becomes known to the official. If the official has not been notified by an applicant in accordance with § 10.116(c) that an entry for merchandise relating to an application has been made prior to a disposition or court decision described in this section, the official shall notify the Commissioner of Customs of such disposition or decision. If the Official thereafter receives notice from the applicant in accordance with § 10.116(c), he shall promptly notify the district director of the final disposition of the application in accordance with the first sentence of this section. (19 U.S.C. 1202 (Gen. headnote 11, scheduled 8, pt. 4, headnotes 1, 6)) **[TDs 67-50, 72-64.]**

§ 10.118 Disposition of articles entered under item 851.60, TSUS.

(a) An institution transferring an article entered under item 851.60 within 5 years of its entry shall so inform the district director of Customs at the port of entry in writing and shall include the following information: **[TDs 67-50, 72-64, 78-99]**

(1) The name and address of the transferring institution.

(2) The name and address of the transferee.

(3) The date of transfer.

(4) The description of the article required by question 5 of Form ITA-338P.

(5) The serial number(s) of the article.

(6) The entry number, date of entry, and port of entry of the original entry.

(b) Whenever the circumstances warrant, and occasionally in any event, district directors of Customs shall cause the fact of continued use for 5 years for noncommercial purposes by the importing institution to be verified by the Office of Investigations. (19 U.S.C. 1202 (Gen. headnote 11, schedule 8, pt. 4, headnotes 1, 6).)

§ 10.119 Importation of repair components under item 851.65 for articles previously entered under item 851.60, Tariff Schedules of the United States.

An institution which owns an instrument or apparatus entered under item 851.60 of the Tariff Schedules of the United States and desires to enter repair components for such instrument or apparatus under item 851.65 of the Tariff Schedules of the United States shall certify upon entry of such components that the articles are needed repair components for an article or articles owned by that institution and previously entered and classified under item 851.60, Tariff Schedules of the United States. **[TD 68-73.]**

Visual or Auditory Materials

§ 10.121 Visual or auditory materials of an educational, scientific, or cultural character.

(a) Where photographic film and other articles described in item 870.30, Tariff Schedules of the United States, are claimed to be free of duty under item 870.30, there shall be filed in connection with the entry covering such articles a document issued by the U.S. Information Agency certifying that it has determined that the articles are visual or auditory materials of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character as required by headnote 1, part 6, schedule 8, Tariff Schedules of the United States. **[TD 67-185.]**

(b) Articles entered under item 870.30, Tariff Schedules of the United States, shall be released from Customs custody prior to submission of the document required in paragraph (a) of this section only upon the deposit of estimated duties with the district director of Customs. Liquidation of an entry covering merchandise which has been released under this procedure shall be suspended for a period of 90 days from the date of entry or until the required document is submitted, whichever occurs first. In the event that the district director of Customs at the port of entry does not receive the required document within the 90-day period, the merchandise shall be immediately classified and liquidated in the ordinary course, without regard to item 870.30. (19 U.S.C. 1202 (Gen. Hdnte 11, sch. 8, pt. 6, hdnte 1))

Rate of Duty Dependent Upon Actual Use[1]

§ 10.131 Circumstances in which applicable.

The provisions of § § 10.131 through 10.139 are applicable in those circumstances in which the rate of duty applicable to merchandise is dependent upon actual use, unless there is a specific provision in this part or Part 54 of this chapter which governs the treatment of the merchandise. However, specific marking or certification requirements, such as those for bolting cloths in section 10.58, may be applicable to merchandise subject to the provisions of sections 10.131-10.139. **[TD 71-139.]**

§ 10.132 Examples of actual use provisions.

Examples of actual use provisions found in the Tariff Schedules of the United States (19 U.S.C. 1202) which will be subject to the provisions of § § 10.131 through 10.139 are:

(a) Rice * * * Patna, cleaned, for use in the manufacture of canned soups (Item 131.37, Tariff Schedules of the United States);

(b) Woven bolting cloths, wholly of silk, imported to be used for milling purposes, and marked so as to be fit for such purposes (Item 357.25, Tariff Schedules of the United States); and

(c) Limestone, crude, broken, or crushed, when imported to be used in the manufacture of fertilizer (Item 480.05, Tariff Schedules of the United States).

§ 10.133 Conditions required to be met.

When the tariff classification of any article is controlled by its actual use in the United States, three conditions must be met in order to qualify for free entry or a lower rate of duty unless the language of the particular item of the Tariff Schedules of the United States applicable to the merchandise specifies other conditions. The conditions are that:

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[1] T.D. 71-139, 36 FR 10726, June 2, 1971.

(a) Such use is intended at the time of importation.

(b) The article is so used.

(c) Proof of use is furnished within 3 years after the date the article is entered or withdrawn from warehouse for consumption. (77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnte. 10(e)(ii))

§ 10.134 Declaration of intent.

A showing of intent by the importer as to the actual use of imported merchandise shall be made by filing with the entry for consumption or for warehouse a declaration as to the intended use of the merchandise, or by entering the proper item number of an actual use provision of the Tariff Schedules of the United States and the reduced or free rate of duty on the entry form. Entry made under an actual use provision of the Tariff Schedules of the United States may be construed as a declaration that the merchandise is entered to be used for the purpose stated in the schedules, provided the district director is satisfied the merchandise will be so used. However, the district director shall require a written declaration to be filed if he is not satisfied that merchandise entered under an actual use provision will be used for the purposes stated in the schedules.

§ 10.135 Deposit of duties.

When the requirement of § 10.134 has been met the merchandise may be entered or withdrawn from warehouse for consumption without deposit of duty when proof of use will result in free entry, or with deposit of duty at the lower rate when proof of use will result in a lower rate of duty. For bond requirements, see section 8.28 of this chapter.

§ 10.136 Suspension of liquidation.

Liquidation of an entry covering merchandise for which a declaration of intent has been made pursuant to § 10.134 and any required deposit of duties made, shall be suspended until proof of use is furnished or the 3-year period allowed for production thereof has expired.

§ 10.137 Records of use.

(a) *Maintenance by importer.* The importer shall maintain accurate detailed records showing the use or other disposition of the imported merchandise. The burden shall be on the importer to keep records so that the claim of actual use can be readily established.

(b) *Retention of records.* The importer shall retain records of use or disposition for a period of 3 years from the date of liquidation of the entry.

(c) *Examination of records.* The records required to be kept by paragraph (a) shall be available at all times for examination and inspection by an authorized Customs officer.

§ 10.138 Proof of use.

Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement showing in detail, in such manner as to be readily identified with each entry, the merchandise which he sold to such manufacturer or end-user during such period.

§ 10.139 Liquidation.

(a) *In general.* Upon satisfactory proof of timely use of the merchandise for the purpose specified by law, the entry shall be liquidated free of duty or at the lower rate of duty specified by law. When such proof is not filed within 3 years from the date of entry or withdrawal from warehouse for consumption, the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.

(b) *Exception for blackstrap molasses.* An entry covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the lower rate after the filing of the declaration of intent required by § 10.134 and the deposit of estimated duties required by § 10.135 without compliance with §§ 10.136, 10.137, and 10.128. Blackstrap molasses is "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

$$\text{total sugars} \times 100/\text{Brix}$$

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of this paragraph.

Importations Not Over $5 and Bona Fide Gifts

§ 10.151 Importations not over $5.

Pursuant to section 321(a)(2)(C), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(C)), the district director shall pass free of duty and tax, and without the preparation of an entry, any importation having a fair retail value in the country of shipment not exceeding $5, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation. (Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498) **[TDs 73-175, 75-185, 78-394]**

§ 10.152 Bona fide gifts.

Pursuant to section 321(a)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(A)), the district director shall pass free of duty and tax, and without the preparation of an entry, any article sent as a bona-fide gift from a person in a foreign country to a person in the United States, provided the aggregate fair retail value in the country of shipment of such articles received by one person on 1 day does not exceed $25 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, $40. An article is "sent" for purposes of this paragraph if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee. (Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498) **[TDs 73-175, 75-185, 78-394]**

§ 10.153 Conditions for exemption.

Customs officers shall be further guided as follows in determining whether an article or parcel shall be exempted from duty and tax under § 10.151 or § 10.152: **[TD 73-175.]**

(a) A "bona fide gift" for purposes of § 10.152 is an article formerly owned by a donor (may be a commercial firm) who gave it outright in its entirety to a donee without compensation or promise of compensation. It does not include articles acquired by purchase, barter, promissory exchange, or similar transaction, nor does it include articles said to be "given" in conjunction with a purchase, barter, promissory exchange, or similar transaction, such as a so-called bonus article.

(b) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that an article is not a gift. Ordinarily an article not exceeding $25 in fair retail value in the country of shipment sent from a person in a foreign country to a person in the United States ($40, in the case of an article sent from a person in the Virgin Islands, Guam, and American Samoa) will be recognizable as a gift from the nature of the article and obvious facts surrounding the shipment. **[TD 75-185, 78-394]**

(c) A parcel addressed to a person in the United States from a business firm in a foreign country would ordinarily not contain a gift from a donor in the foreign country. When such a parcel in fact contains an article entitled to free entry under section 10.152, the parcel should be clearly marked to indicate that it contains such a gift and a statement to this effect should be enclosed in the parcel.

(d) Consolidated shipments addressed to one consignee shall be treated for purposes of §§ 10.151 and 10.152 as one importation. The foregoing shall not apply to shipments of bona fide gifts consolidated abroad for shipment to the United States when:

(1) The consolidation for shipment to the United States is in a cargo van or similar containerization which is consigned to a common carrier, freight forwarder, freight handler, or other public service agency for distribution of the gift packages;

(2) The separate gifts not exceeding $25 in fair retail value in the country of shipment ($40, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa) included in the consolidated shipment are before shipment individually wrapped and addressed to the donee in the United States; **[TD 75-185, 78-394]**

(3) Each gift package is marked on the outside to indicate that it contains a gift not exceeding $25 in fair retail value in the country of shipment ($40, in the case of packages sent from persons in the Virgin Islands, Guam, and American Samoa); and **[TD 75-185, 78-394]**

(4) Each gift package is separately listed in the name of the addressee-donee on a packing list, manifest, bill of lading, or other shipping document.

(e) No alcoholic beverage, perfume containing alcohol (except where the aggregate fair retail value in the country of shipment of all merchandise contained in the shipment does not exceed $5), cigars, or cigarettes shall be exempted from the payment of duty and tax under § 10.151 or § 10.152. **[TD 78-394]**

(f) The exemptions provided for in § 10.151 or § 10.152 are not to be allowed in respect of any shipment containing one or more gifts having an aggregate fair retail value in the country of shipment in excess of $25 ($40, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), except as indicated in paragraph (d) of this section. For example, an article ordinarily subject to an ad valorem rate of duty but sent as a gift, if the fair retail value exceeds the $25 (or $40) exemption, would be subject to a duty based upon its value under the provisions of section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), even though the dutiable value is less than the $25 (or $40) exemption. **[TD 78-394]**

(g) The exemption referred to in § 10.151 is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry. (R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 7, 52 Stat. 1081, as amended (19 U.S.C. 66, 1321, 1498, 1624))

Generalized System of Preferences

§ 10.171 General.

(a) *Statutory authority.* Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461-2465) authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries. Beneficiary developing countries and articles eligible for duty-free treatment are designated by the President by Executive order in accordance with sections 502(a)(1) and 503(a) of the Trade Act of 1974, as amended (19 U.S.C. 2462(a)(1), 2463(a)). **[TD 76-2, 80-271.]**

(b) *Country defined.* For purposes of §§ 10.171 through 10.178, except as otherwise provided in § 10.176(a), the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including but not limited to, the reduction of duties the President may by Executive order provide that all members of such association other than members which are barred from designation under section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) shall be treated as one country for purposes of §§ 10.171 through 10.178. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b))) **[TD 80-271.]**

§ 10.172 Claim for exemption from duty under the Generalized System of Preferences.

A claim for an exemption from duty on the ground that the Generalized System of Preferences applies shall be allowed by the appropriate district director only if he is satisfied that the requirements set forth in this section and sections 10.173 through 10.178 have been met. If duty-free treatment is claimed at the time of entry, a written claim shall be filed on the entry document by placing the symbol "A" as a prefix to the Tariff Schedules of the United States Annotated item number for each article for which such treatment is claimed. If duty-free treatment is claimed subsequent to the time of entry in accordance with § 10.112, the filing of the Certificate of Origin, or a duplicate thereof as described in § 10.173(a)(2), shall constitute the written claim. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b))) **[TDs 76-2, 77-36.]**

§ 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of $250*—(1) *Certificate of Origin.* Except as provided in paragraph (a)(5) of this section, the importer or consignee of a shipment of eligible merchandise valued in excess of $250 shall file with the district director in connection with the entry the Generalized System of Preferences Certificate of Origin Form A, as evidence of the country of origin. Form A shall be signed by the exporter of the merchandise in the country from which it is directly imported, certified by the designated governmental authority in that country, and properly completed. **[TDs 76-2, 77-36.]**

(2) *Duplicate Certificate of Origin.* In the event of the loss, theft, or destruction of a Certificate of Origin, the district director will accept in connection with the entry a duplicate Certificate of Origin issued by the appropriate governmental body in the country of origin and endorsed with the word "duplicate" in box 4. The duplicate shall bear the date of issue of the original Certificate of Origin and will be effective from that date. **[TD 77-36.]**

(3) *Release under bond.* If the required Certificate of Origin properly completed, or a duplicate thereof as described in subparagraph (2) of this paragraph, is not produced at the time of entry, the entry shall be accepted, subject to compliance with the requirements set forth in § 10.172 and §§ 10.174 through 10.178, only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the Certificate of Origin. The bond shall be in the amount required under § 113.14 of this chapter. Within 60 days after such entry, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the Certificate of Origin. If the Certificate of Origin is not delivered to the district director within 60 days of the date of entry or such additional period as the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter. **[TD 77-27.]**

(4) *Verification of evidence.* Evidence of the country of origin required under this paragraph shall be subject to such verification as the district director deems necessary.

(5) *Waiver of Certificate of Origin.* (i) The district director may waive production of a Certificate of Origin only in the case of articles for personal or household use which are not intended for resale or brought in for the account of others, when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the Generalized System of Preferences.

(ii) Until March 31, 1976, the district director may waive production of a Certificate of Origin when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the Generalized System of Preferences.

(b) *Shipments valued at $250 or less.* Although the filing of a Certificate of Origin, is not required for shipments valued at $250 or less, the district director may require such other evidence of the country of origin as he deems necessary. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.174 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The district director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in section 10.175. Any evidence of direct shipment required by the district director shall be subject to such verification as he deems necessary. **[TD 76-2.]**

(b) *Waiver of evidence of direct shipment.* The district director may waive the submission of evidence of direct shipment when he is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the Generalized System of Preferences. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.175 Imported directly defined.

Eligible articles shall be imported directly from a beneficiary developing country to qualify for treatment under the Generalized System of Preferences. For purposes of §§ 10.171 through 10.178 the words "imported directly" mean: **[TD 76-2.]**

(a) Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or

(b) Except as provided in paragraph (c) of this section, if shipped from a beneficiary developing country to the United States through the territory of any other country, the merchandise shall not have entered into the commerce of any other country while en route to the United States, and the invoices, bills of landing and other documents connected with the shipment shall show the United States as the final destination; or

(c) If shipped from the beneficiary developing country to the United States through a free trade zone in a beneficiary developing country, the merchandise shall not enter into the commerce of the country maintaining the free trade zone, and

(1) The eligible articles must not undergo operation other than:

(i) Sorting, grading, or testing,

(ii) Packing, unpacking, changes of packing, decanting or repacking into other containers,

(iii) Affixing marks, labels, or other like distinguishing signs on articles or their packing, if incidental to operations allowed under this section, or

(iv) Operations necessary to ensure the preservation of merchandise in its condition as introduced into the free trade zone.

(2) Merchandise may be purchased and resold, other than at retail, for export within the free trade zone.

(3) The Certificate of Origin issued by the designated beneficiary developing country of origin shall state in column 12, that the eligible articles comply with the origin requirements for goods exported to the United States under the Generalized System of Preferences. Column 2 of the Certificate of Origin shall include the name of the consignee in the United States or in the free trade zone.

(4) The certifying authority in the designated beneficiary developing country maintaining the free trade zone shall issue a Certificate of Origin Form A, declaring what operations were performed within the free trade zone. The original Certificate of Origin issued in the beneficiary developing country of origin shall be retained by the designated authority in the country maintaining the free trade zone and a copy thereof shall be furnished to the United States importer.

(5) For the purposes of this section, a free trade zone is a predetermined area or region declared and secured by or under governmental authority, where certain operations may be performed with respect to articles, without such articles having entered into the commerce of the country maintaining the free trade zone. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.176 Country of origin criteria.

(a) *Merchandise produced in a beneficiary developing country or any two or more countries which are members of the same association of countries.* Merchandise which is (1) the growth, product, manufacture, or assembly of (i) a beneficiary developing country or (ii) any two or more countries which are members of the same association of countries and (2) imported directly from such beneficiary developing country or member countries, may qualify for duty-free entry under the Generalized System of Preferences ("GSP"). However, duty free entry under GSP may be accorded only if (i) the sum of the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), Trade Act of 1974, as amended (19 U.S.C. 2462(a)(3)), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or member countries, is not less than 35 percent of the appraised value of the article at the time of its entry into the customs territory of the United States. **[TD 76-2, 80-271.]**

(b) [Reserved]

(c) *Merchandise grown, produced, or manufactured in a beneficiary developing country.* Merchandise which is wholly the growth, product, or manufacture of a beneficiary developing country, or an association of countries treated as one country under section 502(a)(3) of the Trade Act of 1974, as amended (19 U.S.C. 2462(a)(3)) and § 10.171(b), and manufactured products consisting of materials produced only in such country or countries, shall normally be presumed to meet the requirements set forth in this section. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b))) **[TD 80-271.]**

§ 10.177 Cost or value of materials produced in the beneficiary developing country.

(a) *"Produced in the beneficiary developing country" defined.* For purposes of § § 10.171 through 10.178, the words produced in the beneficiary developing "country" refer to the constituent materials of which the eligible article is composed which are either: **[TDs 76-2, 76-100.]**

(1) Wholly the growth, product, or manufacture of the beneficiary developing country; or

(2) Substantially transformed in the beneficiary developing country into a new and different article of commerce.

(b) *Questionable origin.* When the origin of an article either is not ascertainable or not satisfactorily demonstrated to the appropriate district director, the article shall not be considered to have been produced in the beneficiary developing country.

(c) *Determination of cost or value of materials produced in the beneficiary developing country.*

(1) The cost or value of materials produced in the beneficiary developing country includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by the beneficiary developing country, or an association of countries treated as one country, provided they are not remitted upon exportation.

(2) Where the material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, manufacture or assembly of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of the materials is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

§ 10.178 Direct costs of processing operations performed in the beneficiary developing country.

(a) *Items included in the direct costs of processing operations.* As used in § 10.176, the words "direct costs of processing operations" means those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to: **[TD 76-2.]**

(1) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and

(4) Costs of inspecting and testing the specific merchandise.

(b) *Items not included in the direct costs of processing operations.* Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses. (R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069 (19 U.S.C. 66, 1624, 2463(b)))

Canadian Crude Petroleum

§ 10.179 Canadian crude petroleum subject to a commercial exchange agreement between United States and Canadian refiners.

(a) Crude petroleum (as defined in Schedule 4, Part 10, Headnote 4(a), Tariff Schedules of the United States (19 U.S.C. 1202)) produced in Canada may be admitted free of duty if the entry is accompanied by a certificate from the importer establishing that:

(1) The petroleum is imported pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Secretary of Energy;

(2) The petroleum is imported pursuant to an import license issued by the Secretary of Energy;

(3) An equivalent amount of domestic or duty-paid foreign crude petroleum on which the importer has executed a written waiver of drawback, has been exported to Canada pursuant to the export license and previously has not been used to effect the duty-free entry of like Canadian products; and,

(4) An export license has been issued by the Secretary of Commerce for the petroleum which has been exported to Canada.

(b) The provisions of this section may be applied to:

(1) Liquidated or reliquidated entries if the required certification is filed with the district director at the port where the original entry was made on or before the 180th day after the date of entry; and

(2) Articles entered, or withdrawn from warehouse, for consumption, pursuant to commercial exchange agreement.

(c) Verification of the quantities of crude petroleum exported to or imported from Canada under such a commercial exchange agreement shall be made in accordance with import verfication provided in Part 151, Subpart C, Customs Regulations (19 CFR Part 151, Subpart C). **[TD 81-292.]**

Certain Fresh, Chilled, or Frozen Beef

§ 10.180 Certification.

(a) The foreign official's meat-inspection certificate required by U.S. Department of Agriculture regulations (9 CFR 327.4) shall be modified to include the certification below when fresh, chilled, or frozen beef is to be entered under the provisions of item 107.61, Tarriff Schedules of the United States (TSUS). The certification shall be made, prior to exportation of the beef, by an official of the government of the exporting country and filed with Customs with the entry summary or with the entry when the entry summary is filed at the time of entry. The requirements of this section shall be in addition to those requirements contained in 9 CFR 327.4. Appropriate officials of the exporting country should consult with the U.S. Department of Agriculture as to the beef grades or standards within their country that satisfy the certification requirement. Exporters or importers of beef to be entered under the provisions of item 107.61, TSUS, should consult with the U.S. Department of Agriculture prior to exportation in order to insure that the beef will satisfy the certification requirements. This certification is relevant only to U.S. Customs tariff classification and is not applicable to marketing of beef under U.S. Department of Agiculture grading standards, a matter within U.S. Department of Agriculture's jurisdiction.

Certification

I hereby certify to the best of my knowledge and belief that the herein described fresh, chilled, or frozen beef, meets the specifications prescribed in regulations issued by the U.S. Department of Agriculture (7 CFR 2853.106 (a) and (b)).

(b) Appropriate officials of the following countries have agreed with the U.S. Department of Agriculture as to the grades or standards for fresh, chilled, or frozen beef within their respective countries which will satisfy the certification requirements of paragraph (a) of this section:

Canada

[TD 82-8.]

PART 11—PACKING AND STAMPING; MARKING

Packing and Stamping

Sec.
11.1 Cigars, cigarettes, medicinal preparations, and perfumery.
11.2 Manufactured tobacco.
11.2a Release from customs custody without payment of tax on cigars, cigarettes and cigarette papers and tubes.
11.3 Package and notice requirements for cigars and cigarettes; package requirements for cigarette papers and tubes.
11.5 Oleomargarine; adulterated butter; filled cheese.
11.6 Distilled spirits, wines, and malt liquors in bulk.
11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Internal Revenue Service.

Marking

11.9 Special marking on certain articles.
11.12 Labeling of wool products to indicate fiber content.
11.12a Labeling of fur products to indicate composition.
11.12b Labeling textile fiber products.
11.13 False designations of origin and false descriptions; false marking of articles of gold or silver.

Authority: The provisions of this Part 11 issued under R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, except as otherwise noted.

Source: The provisions of this Part 11 appear at 28 FR 14701, Dec. 31, 1963, unless otherwise noted.

Packing and Stamping

§ 11.1 Cigars, cigarettes, medicinal preparations, and perfumery.

(a) All cigars and cigarettes imported into the United States, except importations by mail and in baggage, shall be placed in the public stores or in a designated bonded warehouse to remain until inspected, weighed, and repacked, if necessary, under the Customs and internal-revenue laws. However, if the invoice and entry presented specify all of the information necessary for prompt determination of the estimated duty and tax on the packages of cigars and cigarettes covered thereby, the district director may permit designation of less than the entire importation for examination. **[TDs 25977, 51395, 52916, 53548, 54393, 54763, 54875.]**

(b) After the cigars and cigarettes have been examined, weighed, and appraised, before release the inspecting officer shall verify that they are in properly constructed packages, conforming to the requirements of the regulations of the Bureau of Alcohol, Tobacco, and Firearms, bearing a legible imprint or a securely affixed label stating the quantity, kind, and classification for tax purposes as required by such regulations. Cigars or cigarettes must be in compliance with such requirements before being released for consumption unless specifically exempted therefrom as indicated in § 11.3. **[TDs 10381, 11811, 15362, 21272, 21743, 21865, 22770, 23887, 30719, 41074, 41416, 44623, 51395, 52916, 53548, 54393, 54875, 55472, 78-329.]**

(c) The immediate containers of all domestic cigars, cigarettes, medicinal preparations, and perfumery, which are returned to the United States and are subject to a duty equal to an internal-revenue tax, shall be stamped by the Customs inspector with a rubber stamp bearing the legend "U.S. Customs—American Goods Returned——— ———, Inspector." The inspector's initials shall appear in the space provided therefor. The packaging requirements set forth in paragraph (b) of this section apply to returned cigars and cigarettes of domestic origin. **[TDs 51395, 53548, 54393, 54875.]**

§ 11.2 Manufactured tobacco.

(a) If the invoice and entry presented for manufactured tobacco specify all the information necessary for prompt determination of the estimated duty on the manufactured tobacco covered thereby, the district director of Customs may permit designation of less than the entire importation for examination. **[TDs 41074, 48954, 53548, 54393, 54875, 55472, 67-193.]**

(b) In the case of returned American manufactured tobacco, the packages shall be marked or stamped by Customs with the inscription "American goods returned."

§ 11.2a Release from Customs custody without payment of tax on cigars, cigarettes and cigarette papers and tubes.

Cigars, cigarettes, and cigarette papers and tubes may be released from Customs custody without payment of any applicable internal revenue tax upon presentation of the Customs entry or withdrawal form and three copies of Alcohol, Tobacco and Firearms form 2145 (5200.11) or 3072 (5210.14), certified by the appropriate regional regulatory administrator, Bureau of Alcohol, and Tobacco and Firearms. The Customs officer shall complete the notice of release, retain one copy, send one copy to the regional regulatory administrator, and return one copy to the manufacturer. The release may not be made under a mail entry. See § 145.13(b) of this chapter. **[TDs 54393, 54875, 55472, 67-193, 73-135, 78-329]**

11.3 Package and notice requirements for cigars and cigarettes; package requirements for cigarette papers and tubes.

Exemptions from tax on cigars, cigarettes, and cigarette papers and tubes apply in accordance with the regulations of the Bureau of Alcohol, Tobacco, and Firearms (27 CFR Part 275) upon release from Customs custody of such articles imported by consular officers and employees of foreign states. Cigars, cigarettes, cigarette papers, and tubes may also be released without payment of tax as provided in § 11.2a and for exhibition in accordance with Part 147 of this chapter. Additionally, cigars, cigarettes, or cigarette papers and tubes may be admitted free of duty and tax under the provisions of schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), or section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321), § § 148.63, 148.74, and subpart I of Part 148 of this chapter. Except in the foregoing instances and in any instance in which such articles are imported in passengers' baggage or are to be released under a mail entry for the personal consumption of the importer or for disposition as his bona fide gift, the provisions in Part 275 of the regulations of the Bureau of Alcohol, Tobacco, and Firearms (27 CFR Part 275) as to packages and notices thereon apply. **[TDs 41074, 54875, 55340, 55472, 55978, 67-193, 73-27, 73-227, 78-329]**

§ 11.5 Oleomargarine; adulterated butter; filled cheese.

Imported oleomargarine, adulterated butter, and filled cheese are subject to special packaging requirements under regulations of the Internal Revenue Service (26 CFR Part 45, Subparts E, G, and H, respectively), and to internal-revenue taxes imposed in addition to duty under sections 4591, 4812, and 4831, Internal Revenue Code of 1954, the payment of which must be represented by stamps.[2] Imported merchandise suspected of being such articles, but not entered as such, shall be detained by the district director and the facts reported to the district director of internal revenue of the district, to whom such samples shall be furnished as may be requested. Imported oleomargarine, adulterated butter, and filled cheese shall not be released from Customs custody until the proper internal-revenue stamps have been affixed and concealed by the importer as required by the regulations of the Internal Revenue Service. **[TDs 32237, 41074, 49504, 54393, 54875, 55340, 67-193.]**

§ 11.6 Distilled spirits, wines, and malt liquors in bulk.

(a) The district director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or conveying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.[3]

(b) Marks, brands, stamps, labels, or similar devices required by Federal, state, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unlading or other suitable place, unless the district director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other conditions. The district director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container. **[TDs 48711, 55978, 79-221.]**

§ 11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Bureau of Alcohol, Tobacco, and Firearms.

The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Bureau of Alcohol, Tobacco, and Firearms relating to strip stamps and other matters. (27 CFR pts. 5, 201, and 251). Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations. **[CIEs 1165/39; 843/41; TDs 48711, 54393, 78-329.]**

Marking

§ 11.9 Special marking on certain articles.

(a) No movement, case, or dial provided for in schedule 7, part 2E, Tariff Schedules of the United States, shall be released for consumption until marked in exact compliance with the requirements of headnote 4 of that subpart. If any article so required to be marked is found not to be marked to indicate the country of origin, the 10 percent marking duty shall be assessed, unless such marking is accomplished or the merchandise is exported or destroyed under Customs supervision prior to the liquidation of the entry, in accordance with the provisions of section 304(c), Tariff Act of 1930, as amended. **[TDs 30281, 42991, 49658, 50277(3), 53336, 53399, 55978.]**

(b) The name of the manufacturer or purchaser which must appear on articles provided for in schedule 7, part 2E, Tariff Schedules of the United States, and specified in headnote 4 of that subpart, may be either the actual name of the manufacturer or purchaser of a duly registered trade name under which such manufacturer or purchaser carries on his business. A trade-mark shall not be accepted as meeting any such special marking requirement unless it includes the full name of the manufacturer or purchaser. The term "Purchaser" as used in this paragraph means the purchaser in the United States by whom or for whose account the articles are imported. **[TDs 42092, 51714, 53336, 55978.]**

§ 11.12 Labeling of wool products to indicate fiber content.

(a) Wool products imported into the United States, except those made more than 20 years prior to importation, and except carpets, rugs, mats, and upholsteries, shall have affixed thereto a stamp, tag, label, or other means of identification, as required by the Wool Products Labeling Act of 1939 (54 Stat. 1129; 15 U.S.C. 68 et seq.) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR Part 300). The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool. **[TD 50388.]**

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[2] Internal-revenue stamps for imported oleomargarine, adulterated butter, and filled cheese will be sold to the owner or consignee of the merchandise by the district director of internal revenue for the district in which is located the port of entry where the customs entry is filed upon requisition therefor on the order form duly executed by an authorized Customs officer.

[3] "The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." (19 U.S.C. 467)

"Beverages in this subpart containing over 24 percent of ethyl alcohol by volume when imported, are classed as spirits under item 168.51." Schedule 1, pt. 12C, headnote 1. Tariff Schedules of the United States.)

(b) If imported wool products are not correctly labeled and the district director is satisfied that the error or omission involved no fraud or willful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under Customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of Customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 134.55 of this chapter. **[TDs 54318, 72-262.]**

(c) Packages of wool products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter. **[TD 74-227.]**

(d) The district director shall give written notice to the importer of any lack of compliance with the Wool Products Labeling Act of 1939 in respect of an importation of wool products, and pursuant to § 141.113 of this chapter shall demand the immediate return of the involved products to Customs custody, unless the lack of compliance is forthwith corrected. **[TDs 55290, 73-175.]**

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to Customs custody and the district director is not fully satisfied that they have been brought into compliance with the Wool Products Labeling Act of 1939, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate Customs officer an application for cancellation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate. **[TD 53268.]**

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of the district director, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from Customs custody, and the case shall be reported to the Federal Trade Commission, Washington, D.C. (Sec. 8, 54 Stat. 1132; 15 U.S.C. 68f)

§ 11.12a Labeling of fur products to indicate composition.

(a) Fur products imported into the United States shall have affixed thereto a label as required by section 4 of the Fur Products Labeling Act (15 U.S.C. 69b) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR 301.1-301.49). The term "fur product" means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Federal Trade Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein. **[TD 53064.]**

(b) If imported fur products are not correctly labeled and the district director is satisfied that the error or omission involved no fraud or wilful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under Customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of Customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 134.55 of this chapter. **[TD 54318, 72-262.]**

(c) Packages of fur products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amounts as is prescribed for such bonds in § 113.14 of this chapter. **[TD 74-227.]**

(d) The district director shall give written notice to the importer of any lack of compliance with the Fur Products Labeling Act in respect of an importation of fur products, and pursuant to § 141.113 of this chapter shall demand the immediate return of the involved products to Customs custody, unless the lack of compliance is forthwith corrected. **[TDs 55290, 73-175.]**

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to Customs custody and the district director is not fully satisfied that they have been brought into compliance with the Fur Products Labeling Act, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate Customs officer an application for cancellation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate. **[TD 53268.]**

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of a district director, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from Customs custody, and the case shall be reported to the Federal Trade Commission, Washington 20580, D.C. (Sec. 6, 65 Stat. 178; 15 U.S.C. 69d)

§ 11.12b Labeling textile fiber products.

(a) Textile fiber products imported into the United States shall be labeled or marked in accordance with the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR Part 303) unless exempt from marking or labeling under section 12 of the Act (15 U.S.C. 70i). An invoice or other paper, containing the specified information may be used in lieu of a label where the textile product is not in the form intended for sale, delivery to, or for use by the ultimate consumer. Rule 31 of the Federal Trade Commission (16 CFR 303.31). **[TD 55085.]**

(b) If imported fiber products are not correctly labeled and the district director is satisfied that the error or omission involves no fraud or willful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under customs supervision to conform with the requirements of such Act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of Customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, § 134.55 of this chapter. **[TD 72-262.]**

(c) Packages of fiber products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual Customs single entry or term bond in such amount as is prescribed for such bonds in § 113.14 of this chapter. **[TD 74-227.]**

(d) The district director shall give written notice to the importer of any lack of compliance with the Fiber Products Identification Act in respect of an importation of fiber products, and pursuant to § 141.113 of this chapter shall demand the immediate return of the involved products to customs custody, unless the lack of compliance is forthwith corrected. **[TDs 55290, 73-175.]**

(e) If the products covered by a notice and demand given pursuant to the preceding paragraph are not promptly returned to Customs custody and the district director is not fully satisfied that they have been brought into compliance with the Fiber Products Identification Act, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate Customs officer an application for cancellation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate.

(f) If any willful or flagrant violation of the Act with respect to the importation of articles comes to the attention of a district director, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from Customs custody, and the case shall be reported to the Federal Trade Commission, Washington 25, D.C. (Sec. 501, 65 Stat. 290, secs. 2-12, 14, 72 Stat. 1717; 15 U.S.C. 70-70k, 31 U.S.C. 483a)

§ 11.13 False designations of origin and false descriptions; false marking of articles of gold or silver.

(a) Articles which bear, or the containers of which bear, false designations of origin, or false descriptions or representations, including words or other symbols tending falsely to describe or represent the articles, are prohibited importation and shall be detained.[14] **[TD 51779.]**

(b) Articles made in whole or in part of gold or silver or alloys thereof imported for sale by manufacturers or dealers which are marked or labeled in a manner indicating a greater degree of fineness than the actual fineness of the gold or silver or alloys thereof, and any plated or filled articles so imported which are marked or labeled to indicate the fineness of the gold or silver and are not also marked or labeled to indicate the plated or filled condition or are marked or labeled with the word "sterling" or the word "coin", are prohibited importation and shall be detained, and the facts shall be reported to the United States attorney. **[CIE 33/43, 1/19/43.]**

(c) Whenever any articles are detained in accordance with the foregoing provisions of this section, and the case of any articles detained under paragraph (b) of this section the United States attorney has indicated that he does not intend to prosecute, the articles shall be seized and forfeited in the usual manner, except that, upon the filing of a petition therefor by the importer prior to final disposition of the articles, the district director may release the articles upon the condition that the prohibited marking be removed or obliterated or that the articles and containers be properly marked to indicate their origin, contents, or condition, or may permit the articles to be exported or destroyed under Customs supervision, and without expense to the Government.

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[14] "It shall be unlawful for any person, firm, corporation, or association, being a manufacturer of or wholesale or retail dealer in gold or silver jewelry or gold ware, silver goods or silverware, * * * to import or export or cause to be imported into or exported from the United States for the purpose of selling or disposing of the same, * * * any article of merchandise manufactured after June 13, 1907, and made in whole or in part of gold or silver, or any alloy of either of said metals, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which said article is incased or inclosed, any mark or word indicating or designed or intended to indicate that the gold or silver or alloy of either of said metals in such article is of a greater degree of fineness than the actual fineness or quality of such gold, silver, or alloy, according to the standards and subject to the qualifications set forth in sections 295 and 296." (15 U.S.C. 294; see also 15 U.S.C. 295-296)

"* * * no article of imported merchandise which * * * shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; * * *." (15 U.S.C. 1124)

"(a) Any person who shall affix, apply, or annex, or use in connection with any goods or services, or any container or containers for goods, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such goods or services to enter into commerce, and any person who shall with knowledge of the falsity of such designation of origin or description or representation cause or procure the same to be transported or used in commerce or deliver the same to any carrier to be transported or used, shall be liable to a civil action by any person doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or by any person who believes that he is or is likely to be damaged by the use of any such false description or representation.

"(b) Any goods marked or labeled in contravention of the provisions of this section shall not be imported into the United States or admitted to entry at any customhouse of the United States. The owner, importer, or consignee of goods refused entry at any customhouse under this section may have any recourse by protest or appeal that is given under the customs revenue laws or may have the remedy given by this Act in cases involving goods refused entry or seized." (15 U.S.C. 1125)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U.S.C. 1405q.)

(d) Articles forfeited for violation of section 294, 1124, or 1125, title 15 and section 545, title 18, U.S. Code, may be disposed of in accordance with the procedure applicable to other Customs forfeitures, but may not be released from Customs custody except upon the removal by and at the expense of the party in interest of the prohibited marking by reason of which the articles were seized, except articles disposed of under § 133.52(a) or (b) of this chapter. (Secs. 1-5, 34 Stat. 260-262, secs. 42, 43, 60 Stat. 440, 441, sec. 11, 62 Stat. 716, sec. 618, 46 Stat. 757; 15 U.S.C. 294-298, 1124, 1125, 18 U.S.C. 545, 19 U.S.C. 1618) **[TDs 52159, 53399, 79-159.]**

PART 12—SPECIAL CLASSES OF MERCHANDISE

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Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted. Sections 12.105 through 12.109 also issued under sec. 204, 86 Stat. 1297 (19 U.S.C. 2094). Sections 12.110 through 12.117 also issued under sec. 17(e), Federal Insecticide, Fungicide and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972; Pub. L. 92-516 (7 U.S.C. 1360(e)).

Source: 28 FR 14710, Dec. 31, 1963, unless otherwise noted. Sections 12.105 through 12.109 appear at 38 FR 10807, May 2, 1973, unless otherwise noted.

Cross Reference: For joint regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture, with respect to importations of economic poisons and devices under the regulations for the enforcement of section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, see 40 CFR Part 162.

Food, Drugs, and Cosmetics, Economic Poisons, Hazardous Substances, and Dangerous Caustic or Corrosive Substances

§ 12.1 Cooperation with certain agencies; joint regulations.

(a) *Federal Food, Drug, and Cosmetic Act.* The importation into the United States of food, drugs, devices, and cosmetics as defined in section 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (f), (g), (h), (i)) is governed by section 801 of the Act, as amended (21 U.S.C. 381) and regulations issued under authority of section 701(b) of the Act (21 U.S.C. 371(b)) by the Secretary of Health, Education, and Welfare, and the Secretary of the Treasury (21 CFR 1.315-1.322). **[21 USC 371(b). TDs 51775, 51836, 52492, 53399, 68-191.]**

(b) *Federal Insecticide, Fungicide, and Rodenticide Act.* The importation of pesticides and devices is governed by section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136*o*(c)), and regulations issued under the authority of section 17(e) of that Act (7 U.S.C. 1360(e)) by the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, as set forth below (§ 12.110 *et seq.*). **[TDs 68-191, 75-194.]**

(c) *Federal Hazardous Substances Act.* The importation of hazardous substances, misbranded hazardous substances, or banned hazardous substances as defined in section 2 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1261) is governed by regulations issued under the authority of sections 10(b) and 14 of said Act, as amended (15 U.S.C. 1296, 1273), by the Secretary of Health, Education, and Welfare and the Secretary of the Treasury (21 CFR 191.265-191.272). **[15 USC 409(c). TD 68-191.]**

(d) *Federal Caustic Poison Act.* The importation of certain dangerous caustic or corrosive substances as defined in section 2(a) of the Federal Caustic Poison Act (15 U.S.C. 402(a)) is governed by section 5 of the Federal Caustic Poison Act (15 U.S.C. 405) and regulations prescribed by the Food and Drug Administration, Department of Health, Education, and Welfare (21 CFR 285.20-285.32) under authority of section 9 of the Act (15 U.S.C. 409). **[TD 68-191.]**

§ 12.3 Release under bond.

No food, drug, device, cosmetic, pesticide, hazardous substance, or dangerous caustic or corrosive substance, the subject of § 12.1 shall be released except in accordance with the laws and regulations applicable thereto. Where any such merchandise is to be released under bond pursuant to regulations applicable thereto, a bond on Customs Form 7551, 7553, or 7595, containing a condition for the return of the merchandise, or any part thereof, to Customs custody upon demand of the district director of Customs, shall be required. **[7 USC 135h, 15 USC 405(a), 21 USC 381(b). TDs 50069, 51836, 50320, 52492, 53399, 68-191, 75-194.]**

§ 12.4 Exportation.

The exportation of merchandise, the subject of § 12.1, refused admission into the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter. **[7 USC 134, 15 USC 405(b), 21 USC 381(b). TDs 50505, 51836, 52492, 68-191.]**

§ 12.5 Shipment to other ports.

When imported merchandise, the subject of § 12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier's manifest, Customs Form 7512, in the same manner as shipments in bond. **[TDs 51836, 52492, 68-191.]**

Importation of Certain Cheeses

§ 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by: **[TD 75-210.]**

(1) An affidavit, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No. 11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in Puerto Rico or areas outside the Customs territory of the United States. Proof of actual consumption shall be furnished to the appropriate Customs officer within three years after the date such cheese is entered or withdrawn from warehouse, for consumption.

(b) These affidavits shall not be required to accompany importations of cheese produced in the member states of the European Communities if such cheese is shipped directly to the United States (excluding Puerto Rico) from the country of origin on a through bill of lading. (Sec. 303, 46 Stat. 687, sec. 204, 70 Stat. 200, as amended (7 U.S.C. 1854, 19 U.S.C. 1303))

Milk and Cream

§ 12.7 Permits required for importation.

(a) Under the act of February 15, 1927 (44 Stat. 1101; 21 U.S.C. 141-149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health, Education, and Welfare. Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration. **[TD 53399.]**

(b) The regulations of the Department of Health, Education, and Welfare under the said act[6] require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations. **[TD 52492.]**

Meats and Meat-Food Products

§ 12.8 Inspection; bond; release.

(a) All imported meat, meat-food products[7] horse meat and horse meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930.[8] Such meat, meat-food products, horse meat and horse meat-food products shall not be released from Customs custody prior to inspection by an inspector of the Food Safety and Quality Service, Meat and Poultry Inspection, except when authority is given by such inspector for inspection at the importer's premises or other place not under Customs supervision. In such case a bond for the return to Customs custody of the merchandise shall be given by the consignee or agent on Customs Form 7551, 7553, or other appropriate form, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Food Safety and Quality Service, Meat and Poultry Inspection, with import-meat seals furnished by the Department of Agriculture unless bearing United States Customs seals, or in the case of packages otherwise identified as provided for in this section. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a Customs officer or inspector of the Meat Inspection Division, Agricultural Research Service. **[TDs 38969, 48781, 51255, 51851, 52433, 52492, 53946, 55247, 78-99]**

In lieu of cording and sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

Notice

This package of meat or meat product must be delivered intact to an inspector of the Meat Inspection Division, U.S. Department of Agriculture.

Warning

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond.

If the product is found to be acceptable upon inspection the package will be marked "U.S. Inspected and Passed" and this warning notice defaced.

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[6] See Appendix XXI, Customs Regulations of 1943.

[7] The term "meat and meat-food products," for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession

[8] "(a) *Rinderpest and foot-and-mouth disease.* If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and there- after; and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country the importation into the United States * * * of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.

"(b) *Meats unfit for human food.* No meat of any kind shall be imported into the United States unless such meat is healthful, wholesome, and fit for human food and contains no dye, chemical, preservative, or ingredient which renders such meat un- healthful, unwholesome, or unfit for human food, and unless such meat also complies with the rules and regulations made by the Secretary of Agriculture. All imported meats shall, after entry into the United States in compliance with such rules and regulations, be deemed and treated as domestic meats within the meaning of and subject to the provisions of the Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 674), commonly called the 'Meat Inspection Amendment,' and the Act of June 30, 1(Thirty- fourth Statutes at Large, page 768) commonly called the 'Food and Drugs Act,' and acts amendatory of, supplementary to, or in substitution for such Acts.

"(c) *Regulations.* The Secretary of Agriculture is authorized to make rules and regu- lations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domes- tic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations." (Tariff Act of 1930, sec. 306, 19 U.S.C. 1306)

See regulations in Appendices XII and XIII, Customs Regulations of 1943.

(b) Liquidated damages assessed for breach of bonds taken under this section, if not in excess of $20,000, and if a written application for relief is filed, may be canceled by the district director upon the payment of less than the full amount as he shall deem appropriate, or without the payment of any amount, as may be deemed appropriate, but the district director shall not act under this paragraph unless the officer in charge of the local office of the Food Safety and Quality Service, Meat and Poultry Inspection, Department of Agriculture, is in full agreement with the proposed action. If there is no local inspector of the Food Safety and Quality Service, Meat and Poultry Inspection, the district director shall not act unless he has obtained the full agreement of the Food Safety and Quality Service, Meat and Poultry Inspection in Washington. **[TDs 53946, 55247, 78-99]**

§ 12.9 Release for final delivery to consignee.

No meat, meat-food products, or animal casings shall be released for final delivery to the consignee until the district director is advised by the Department of Agriculture, or its representative, that the merchandise is admissible. **[TDs 33952, 42447.]**

Plants and Plant Products

§ 12.10 Regulations and orders of the Department of Agriculture.

The importation into the United States of plants and plant products is subject to regulations and orders of the Department of Agriculture restricting or prohibiting the importation of such plants and plant products. Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations and orders of the Department of Agriculture and the provisions of law under which they are made. (Secs. 1-9, 11, 37 Stat. 315, as amended, 316, 317, 318, as amended, 319, 37 Stat. 854; 7 U.S.C. 151-162) **[TD 52492]**

§ 12.11 Requirements for entry and release.

(a) The importer or his representative shall submit to the district director at the port of first arrival, for each entry of plants or plant products requiring a plant quarantine permit, a notice of arrival for any type of entry except rewarehouse and informal mail entries. Such notice shall be on a form provided for the purpose by the Department of Agriculture. The district director at the port of arrival shall compare the notice of arrival which he receives from the importer or his representative with the shipping documents, certify its agreement therewith, and transmit it, together with any accompanying certificates or other documents pertaining to the sanitary status of the shipment, to the Department of Agriculture. The merchandise may not be moved, stored, or otherwise disposed of until the notice of arrival has been submitted and release for the intended purpose has authorized by an inspector of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs. **[TD 52492, 55039, 78-99]**

(b) Where plant or plant products are shipped from the port of first arrival to another port or place for inspection or other treatment by a representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and all Customs requirements for the release of the merchandise have been met, the merchandise shall be forwarded under a special manifest (Customs Form 7512) and in-bond labels or Customs seals to the representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs at the place at which the inspection or other treatment is to take place. No further release by the district director shall be required. **[TDs 52610, 54056, 55039, 78-99]**

§ 12.12 Release under bond.

Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant approved by the Department of Agriculture upon the giving of a bond on Customs Form 7551, 7553, or other appropriate form to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to Customs custody when demanded by the district director. **[TD 52492.]**

§ 12.13 Unclaimed shipments.

(a) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed, they may be sold subject to the provisions of subparts C and D of Part 127 of this chapter to any person to whom a permit has been issued who can comply with the requirements of the regulations governing the material involved. **[TDs 52492, 74-114.]**

(b) Unclaimed plants and plant products not complying with the requirements mentioned in this section shall be destroyed, by burning or otherwise, under Customs supervision.

§ 12.14 Detention.

(a) District directors shall refuse release of all plants or plant products with respect to which a notice of prohibition has been promulgated by the Secretary of Agriculture under any of the various quarantines. If an importer refuses to export a prohibited shipment immediately, the district director shall report the facts to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and the United States attorney and withhold delivery pending advice from that Department. **[TDs 52492, 55039, 78-99]**

(b) In case of doubt as to whether any plant or plant product is prohibited, the district director shall detain it pending advice from the Department of Agriculture.

§ 12.15 Disposition; refund of duty.

Plants or plant products which are prohibited admission into the United States under Federal law or regulations and are exported or destroyed under proper supervision are exempt from duty and any duties collected thereon shall be refunded. (See § § 158.41 and 158.45(c) of this chapter.) (Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558) **[TD 72-258.]**

Agricultural and Vegetable Seeds

§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

(a) The importation into the United States of agricultural and vegetable seeds and screenings thereof is governed by rules and regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture under section 402(b) of the Federal Seed Act of August 9, 1939.[9]

(b) Under the said joint rules and regulations, district directors are required to draw samples of such seeds and screenings, forward them to the seed laboratories, and notify the owner or consignee that such samples have been drawn and that the shipment shall be held intact pending a decision of the Grain Division, Agricultural Marketing Service, in the matter. **[BCLs 1835/38; 2070/40; 2133/40; 2138/40; 2206/41.]**

(c) It is further provided in said joint rules and regulations that after samples have been drawn such seeds and screenings shall be admitted into the commerce of the United States only if they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the district director may release the shipment, pending examination and decision in the matter, upon the giving of a bond conditioned upon the return to Customs custody of the seed or screenings or any part thereof upon demand of the district director at any time. Such bond shall be on Customs Form 7551, 7553, or other appropriate form, and shall be filed with the district director who, in case of default, shall take appropriate action to effect the collection of the liquidated damages equal to the invoice value of the entire shipment plus the estimated duty thereof, if any. (Sec. 402(b), 53 Stat. 1285; 7 U.S.C. 1592(b)) **[BCL 5/29/40. TDs 47281, 50000.]**

Viruses, Serums, and Toxins for Treatment of Domestic Animals

§ 12.17 Importation restricted.

The importation into the United States of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals is prohibited[10] unless the importer holds a permit from the Department of Agriculture covering the specific product. The district director shall notify the Animal and Plant Health Inspection Service, Veterinary Services, Washington, D.C., of the arrival of any such product, and detain it until he shall receive notice from that Department that a permit to import the shipment has been issued. **[BCL 2276/41. TDs 33575 49476(5), 49905, 52492, 78-99]**

§ 12.18 Labels.

Each separate container of such virus, serum, toxin, or analogous product imported is required by the regulations of the Department of Agriculture to bear the true name of the product and the permit number assigned by the Department of Agriculture in the following form: "U.S. Veterinary Permit No. ———," or an abbreviation thereof authorized by the Animal and Plant Health Inspection Service, Veterinary Services. Each separate container also shall bear a serial number affixed by the manufacturer for identification of the product with the records of preparation thereof, together with a return date. **[TD 53399, 78-99]**

§ 12.19 Detention; samples.

(a) The district director shall detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture. **[TD 33575.]**

(b) Samples shall be furnished to the Department of Agriculture upon its request, and the district director shall immediately notify the consignee of any such request.

§ 12.20 Disposition.

Viruses, serums, or toxins rejected by the Department of Agriculture shall be released by the district director to that Department for destruction, or exported under Customs supervision at the expense of the importer if exportation is authorized by the Department of Agriculture.

Viruses, Serums, Toxins, Antitoxins, and Analogous Products for the Treatment of Man

§ 12.21 Licensed establishments.

The bringing into the United States for sale, barter, or exchange, of any virus, therapeutic serum, toxin, antitoxin, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man is prohibited unless such virus, serum, toxin, antitoxin, or other product has been manufactured at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Health, Education, and Welfare for such manufacture. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TDs 29828, 48293, 52492, 69-201]**

§ 12.22 Labels; samples.

Each package of such products imported for sale, barter, or exchange shall be labeled or plainly marked with the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected to yield their specific results. From each lot of product the district director shall select at random at least two final containers. The random sample together with a copy of the associated documents which describe and identify the shipment shall be forwarded to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014. For shipments of 20 or less final containers, samples need not be forwarded, provided a copy of an official release from the Division of Biologics Standards accompanies each shipment. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TDs 29828, 48293, 69-201.]**

§ 12.23 Detention; examination; disposition.

(a) District directors shall detain all importations of unlicensed viruses, therapeutic serums, toxins, antitoxins, and analogous products, and arsphenamines or its derivatives (or any other trivalent organic arsenic compound) for the treatment or cure of diseases or injuries of man pending examination by the Director, Division of Biologics Standards, unless satisfied from evidence furnished at the time of entry that the products are intended solely for purposes of controlled investigation and not for sale, barter, or exchange, as evidenced by a copy of a filed "Notice of Claimed Investigational Exemption for a New Drug," pursuant to § 130.3 of the Food, Drug, and Cosmetic Act Regulations (21 CFR 130.3), or are being imported under the short supply provisions of § 73.16 of the Public Health Service Regulations (4 CFR 73.16). **[29 Op. A. G. 340. TDs 48293, 69-201]**

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[9] See Appendix XIV, Customs Regulations of 1943.

[10] See Appendix XVII, Customs Regulations of 1943. (37 Stat. 832, 833; 21 U.S.C. 151–158)

(b) If the shipment is imported for sale, barter, or exchange and is found by the Director, Division of Biologics Standards, to be admissible, the district director shall release it upon receipt of a report from him that the shipment is admissible. **[TD 69-201.]**

(c) If the Director, Division of Biologics Standards, reports that the shipment was found upon examination not to conform to the law and the regulations, the district director shall not release the shipment but shall permit the exportation or destruction thereof under Customs supervision at the option of the importer. **[TDs 52492, 69-201.]**

(d) Shipments of such products for use in the treatment of man but made from or with material of animal origin other than human, shall, unless accompanied by a Department of Agriculture, Animal Health Division, permit, be detained until proof is presented to the district director that their importation is not prohibited under 9 CFR Part 94 or Part 122. (Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) **[TD 69-201.]**

Domestic Animals, Animal Products, and Animal Feeding Materials

§ 12.24 Regulations of the Department of Agriculture.

(a) The importation into the United States of domestic animals, animal products, and animal feeding materials is subject to inspection and quarantine regulations of the Department of Agriculture,[11] Customs officers and employees are authorized and directed to perform such functions as are necessary or proper on their part to carry out such regulations of the Department of Agriculture. **[TDs 45782, 50057, 50292, 50311, 50332, 50346, 50407, 50741, 51182, 51499, 51592, 51611, 51745, 51882, 52082, 52231, 52492, 52630, 52678, 78-99]**

(b) Inspection by an inspector of the Animal and Plant Health Inspection Service, Veterinary Services is required for all horses, cattle, sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country. Orders listing the ports designated as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, whenever conditions warrant.

(c) The entry of domestic animals may be made, but shall not be required, before the expiration of the quarantine period. Such animals, if not entered at the time of arrival, shall be considered as under general order while under quarantine and shall not be released except upon notice from the district director that the importer has complied with all the requirements for entry.

Fish, Wildlife and Insects

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered species; designated ports of entry; permits required.

(a)(1) The importation into United States, the Commonwealth of Puerto Rico, and the territories and possessions of the United States of live specimens of (i) any species of the so-called "flying fox" or fruit bat of the genus Pteropus; (ii) any species of mongoose or meerkat of the genera Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos, and Suricata; (iii) any species of European rabbit of the genus Oryctolagus; (iv) any species of Indian wild dog, red dog, or dhole of the genus Cuon; (v) any species of multimammate rat or mouse of the genus Mastomys; (vi) any live specimens or egg of the species of so-called "pink starling" or "rosy pastor" Sturnus roseus; (vii) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) Quelea quelea; (viii) any species of Java sparrow, Padda oryzivora; (ix) the species of red-whiskered bulbul, Pycnonotus jocosus; (x) any live fish or viable eggs of the family *Clariidae;* (xi) any other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulations to be injurious to human beings, to the interest of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is prohibited, except as may be authorized by the issuance of a permit by the Director, Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Department of Interior, Washington, D.C. 20240, or his authorized representative. If any such prohibited specimen is imported, or if any specie or subspecie of other live or dead fish or wildlife, including any parts, products, or eggs thereof, appearing on the Endangered Species List published by the Bureau of Sport Fisheries and Wildlife, is imported, Customs release of the prohibited specimen or endangered fish or wildlife shall be refused unless there has been issued and presented in connection with entry a proper Bureau of Sport Fisheries and Wildlife permit authorizing the import transaction. In the absence of such permit, injurious specimens prohibited entry shall be required to be immediately exported or destroyed. Changes in injurious species and endangered species or subspecies which are prohibited or restricted importation may be published from time to time in 50 CFR Part 13—Importation of Wildlife or Eggs Thereof or in Part 17—Conservation of Endangered Species and Other Fish or Wildlife. Unreleased species or subspecies of live or dead endangered fish or wildlife, including parts, products, or eggs thereof, shall remain under detention subject to seizure and delivery to an appropriate regional director or other agent of the Bureau of Sport Fisheries and Wildlife for disposition as appropriate pursuant to 50 CFR Part 17. **[TDs 46255, 48173, 52469, 53102, 53866, 66-68, 68-173, 70-15, 70-242.]**

(2) Fish and eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by the signed certification of a qualified fish pathologist in substantially the form as prescribed in 50 CFR 13.7. The following are excepted from the certification requirements: **[TDs 66-68, 68-173, 72-129.]**

(i) Salmon landed in North America and brought into the United States for processing or sale;

(ii) Any salmonid caught in the wild in North America under a sport or a commercial fishing license; and

(iii) Fish or eggs of the family Salmonidae when processed or prepared in accordance with 50 CFR 13.7(c), or otherwise exempted from the requirement of certification.

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[11] See Appendix XII, Customs Regulations of 1943, and BAI orders published from time to time in the weekly Treasury Decisions.

(3) Regulations (50 CFR Part 17) require the importer or his agent to file a Declaration for the Importation of Fish or Wildlife, unless it is an import transaction exempted from the requirement by 50 CFR Part 13 or Part 17. Such declaration on Bureau of Sport Fisheries and Wildlife Form 3-177, available to importers through Customs ports of entry, shall be filed with the appropriate Customs officer at the port of entry conducting the actual Customs clearance and release of the declared fish, wild mammal, or bird, amphibian, reptile, mollusk, crustacean, or dead body or egg thereof. The declaration on Form 3-177 shall show the common and scientific names, number, and country of origin of all species or subspecies declared, designate and identify any species listed on the U.S. List of Endangered Foreign Fish and Wildlife, 50 CFR Part 17, Appendix A, and indicate whether any species is subject to laws and regulations in any foreign country regarding its taking, transportation, or sale. See paragraph (g) of this section for special documentation requirements. **[TDs 66-68, 68-173, 70-242, 72-129.]**

(4) Federal agencies, subject to requirements in subparagraph (2) of this paragraph, may import solely for their own use live wildlife except migratory birds, or their eggs, without a permit from the Bureau of Sport Fisheries and Wildlife, upon filing the declaration on Form 3-177. Importation of bald or golden eagles, or their eggs is prohibited. **[TD 68-173.]**

(5) Customs entry for consumption or bonded warehousing of fish and wildlife, as defined in 50 CFR 17.2 (e) and (f), intended for importation into the United States, or admission into a foreign trade zone, shall be filed at a port of entry among those designated for Customs entry in 50 CFR Part 17, Appendix B. However, Customs entry for consumption or bonded warehousing of shipments subject to emergency diversion or otherwise authorized under regulations or by permit issued by the Bureau of Sport Fisheries and Wildlife pursuant to 50 CFR Part 17, Appendices B and C, may be filed for examination and release at the ports of entry so named or permitted, but no consumption or bonded warehouse entry shall be filed or accepted at an undesignated port for any endangered specie or subspecie permitted importation pursuant to 50 CFR 17.12 except in the case of an emergency diversion of live endangered fish or wildlife accepted for such entry in accordance with item 2(b) of 50 CFR Part 17, Appendix B. Importations of fish and wildlife subject to regulations of the Bureau of Sport Fisheries and Wildlife which arrive from abroad at any place in the United States not designated as an authorized port for Customs entry, unless occurring under conditions or circumstances in which Customs entry for consumption or bonded warehousing and final clearance has been authorized by Bureau of Sport Fisheries and Wildlife regulations or permit, may be entered only for immediate transportation without appraisement for movement under Customs bond to one of the designated ports of entry. Customs entry, release, and delivery of any shipment of shellfish and fishery products defined in 50 CFR 17.2(j) imported for commercial purposes is authorized at any port of entry, except insofar as such items include any species or subspecies which appears on the Endangered Species List in 50 CFR Part 17, Appendix A. **[TD 70-242.]**

(b) Permits are required for the importation of wild animals and birds as follows: **[TD 66-68.]**

(1) Wild birds protected by the Migratory Bird Treaty Act (16 U.S.C. 703-711) and the regulations promulgated thereunder (50 CFR Part 10), may be imported from foreign countries for scientific, propagating, or other limited purposes only under permits issued by the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, United States Department of the Interior, Washington, D.C., 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import migratory birds without a permit. Such migratory birds, when imported from Mexico, must be accompanied by Mexican export permits (50 CFR 16.3 and 16.5). **[TDs 53102, 66-68.]**

(2) Game mammals (antelopes, mountain sheep, deer, bears, peccaries, squirrels, rabbits, and hares), protected by the Migratory Bird Treaty Act (16 U.S.C. 703-711), dead or alive, or their parts or products, must be accompanied by Mexican export permits (50 CFR 15.3) when imported from Mexico. **[TD 66-68.]**

(3) Wild ruminants (all animals which chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes) and swine (various varieties of wild hogs), except from Canada and certain northern States of Mexico may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, D.C. 20250. Such permits must be obtained before the animals are shipped from the country of exportation.[13] All wild ruminants and swine must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. **[TDs 53102, 53866, 78-99]**

(4) Psittacine birds, which include all birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parrotlets, beebees, parakeets, lovebirds, lories, lorikeets, and all other birds of the order Psittaciformes, when destined for a zoological park or medical research institution without having had prior confinement and treatment abroad at an approved treatment center, and psittacine birds taken out of the United States but inadmissible under paragraph (c) of this section, may be imported when accompanied by a permit issued by the Surgeon General. Application for such a permit may be made to the Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333, or to a Public Health Service quarantine station established at a port of entry in the United States. **[TDs 53251, 53336, 53399, 68-165.]**

(5) Ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl, except from Canada, may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, D.C. 20250.[13a] Such permits must be obtained before the birds are shipped from the country of origin. Such birds from Canada must be ac-

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[13] See Appendix XII, Customs Regulations of 1943, quoting 9 CFR Part 92

[13a] See footnote on p. 205

companied by a certificate issued by a Canadian Government veterinarian. All such birds must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. **[TDs 53102, 63866, 78-99]**

(c) Psittacine birds as defined in paragraph (b)(4) of this section, not to exceed two such birds by members of a family comprising a single household in any 12-month period, may be imported under prescribed conditions (see 42 CFR 71.164(e)) without permit and without prior confinement and treatment, to be kept as pets by the owner, who will be required to comply with the Foreign Quarantine Regulations of the U.S. Public Health Service. Birds taken out of the United States and being returned may be admitted, without permit, upon full compliance with prescribed conditions of those regulations for admission of birds imported as pets. No such birds shall be released until the importer has complied with applicable requirements of the Public Health regulations. **[TDs 53251, 53336, 68-165.]**

(d) Cats, dogs, and monkeys are subject to the Foreign Quarantine Regulations of the United States Public Health Service, Department of Health, Education, and Welfare Washington, D.C.[13b] Such animals shall not be released until the Public Health regulations are complied with by the importer. **[TD 53336.]**

(e) If a shipment contains migratory birds for which a permit is required by the Fish and Wildlife Service of the Department of the Interior, and such permit is not at hand when the birds arrive, an examination thereof shall be made at once by the examiner and any duties estimated to be due shall be collected. A stipulation shall be filed with the collector within 24 hours of the entry to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. Meanwhile, the property may be released to the importer, consignee, or agent for proper care upon the giving of a bond conditioned upon the return of the birds to Customs custody upon demand of the district director at any time. Such bond shall be on Customs Form 7551, 7553, or other appropriate form in an amount equal to the sum of the entered value plus any estimated duties and shall be filed with the collector of customs who, in the case of default, shall take appropirate action to effect the collection of liquidated damages equal to the entered value of the merchandise not returned plus any estimated duty thereon; or if the importer, consignee, or agent shall so elect, the property may be retained in Customs custody at the expense of the importer pending the issuance of the permit.

(f) If the permit referred to in paragraph (e) of this section is refused by the Fish and Wildlife Service, or if the permit is not produced within the said 30 days, the district director shall promptly recall the property, if delivered under bond, and shall require its immediate exportation at the expense of the importer or consignee.

(g) All import shipments of fish and wildlife subject to the regulations or permit requirements of the Bureau of Sport Fisheries and Wildlife, published pursuant to the Endangered Species Conservation Act of 1969, 16 U.S.C. 688cc, or other statutory authority, shall be subject to examination or inspection by that agency's officer serving the port of entry, for determination as to permissible release or such other disposition as he may direct. Customs officers performing examinations of such fish and wildlife in accordance with regulations of the Bureau of Sport Fisheries and Wildlife in 50 CFR Part 10 and Parts 13-17, shall release shipments only upon submission by the importer of evidence sufficient to establish compliance with those regulations, any applicable permit requirements, and compliance with applicable identification and package or container marking requirements as specified by 50 CFR 17.6(a) and 17.9. In case of doubt as to whether fish, birds, or other wildlife belong to prohibited or endangered species or subspecies or whether an entry permit is required, or in case of suspicion on the part of officers of the Customs that the species sought to be entered are prohibited or endangered species or subspecies imported under other names or descriptions, the importation shall be refused Customs release, and the importer shall be responsible for concluding arrangements acceptable to the regional director or other agent of the Bureau of Sport Fisheries and Wildlife for proper handling, custody, and care, at the importer's expense and risk, of the unreleased fish, birds, or other wildlife. No Customs disposition of the importation shall be concluded pending the determination by the Bureau of Sports Fisheries and Wildlife of the true nature of the species or subspecies. In case of refusal or neglect of the importer or consignee, or agent of either, to have the identity so established, final disposition of the importation shall be required as determined by the Bureau of Sport Fisheries and Wildlife. In addition to Bureau of Sport Fisheries and Wildlife Form 3-177, required to be filed as prescribed in 50 CFR 17.4 upon entry of importations of fish and wildlife, entrants shall present appropriate foreign export permits, other acceptable foreign documentary evidence of lawful taking, transportation, or sale, or appropriate American consular certificates upon importation of fish and wildlife species or subspecies subject to such documentation requirements of 50 CFR 17.4 (c) and (d). **[TD 70-242.]**

(h) All invoices of animals and birds shall specify the species covered thereby and the number of each species. In the event of the return to the district director of any importation under the bond given under paragraph (e) of this section, if the number and species of birds does not correspond with the description stated in the invoice and if no satisfactory explanation of any discrepancy is furnished, the bond shall be forfeited.

(i) The privilege of entry for immediate transportation granted by section 552, Tariff Act of 1930, shall not be allowed for importations of fish, birds, or other wildlife which are confirmed at the port of first arrival or discharge to be injurious prohibited species, or which require permits issued prior to importation, or which are subject to quarantine regulations or inspection at the ports of first arrival or discharge or other specified place of veterinary inspection. However, entry for immediate transportation properly is allowed for any importation of fish, birds, or other wildlife which at the place of first arrival or discharge is not confirmed to be an injurious prohibited specie and which, following compliance with any applicable quarantine regulations or required veterinary inspection, is being transported by means of an in-bond movement to a port of entry designated in 50 CFR Part 17, Appendix B, for Customs entry (see paragraphs (a) and (b) of this section). Ports of designated entry, inspection, quarantine, and related enforcement procedures covering certain animals and poultry and certain animal and poultry products imported into the United States are regulated by requirements and standards prescribed in regulations of the Secretary of Agriculture, Department of Agriculture (see 9 CFR Parts 92–96; 19 CFR 12.8 and 12.24). **[TD 70-242.]**

[13b] See Appendix XVIII, quoting 42 CFR 71.154, 71.155.

(j) Wild animals and birds shall be imported under humane and healthful conditions, due regard being given to the accommodations and facilities necessary for the species transported.

(k) When any Customs officer has good reason to believe that wild animals or birds have been imported under inhumane or unhealthful conditions in violation of 18 U.S.C. 42, an immediate investigation shall be made to ascertain whether they have in fact been transported under such conditions. The investigation shall determine the provisions made on the vessel or other conveyance for the accommodation of the animals or birds, the suitability of the boxes, cages, stalls, etc., the space, ventilation, and protection from the elements accorded the animals or birds, the facilities for cleaning, feeding, watering, bedding, and such other services as may be required for the species imported. The investigation shall also determine, the physical condition of such animals or birds and the ratio of dead, crippled, diseased, or starving animals or birds. If necessary, officers of the Animal and Plant Health Inspection Service, Veterinary Services, or Fish and Wildlife Service, or other officers or experts, may be called upon to assist customs officers in the matter. **[TD 78-99]**

(l) Unless the district director is satisfied that the provisions of 18 U.S.C. 42 have not been violated, he shall report the matter to the United States attorney for appropriate action. (Sec. 1, 62 Stat. 687, as amended; 18 U.S.C. 42)

§ 12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.

Certain statutory provisions prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs of such birds, killed, captured, taken, transported, etc., contrary to law.[14] Customs officers shall perform all duties required of them under such laws. **[CIE 3745/31. TDs 44467, 49140(13), 49948, 66-68.]**

§ 12.28 Importation of wild mammals and birds in violation of foreign law.

(a) No imported wild mammal or bird, or part or product thereof, shall be released from customs custody, except as permitted under § 12.26(i) relating to an in-bond movement to a port designated for wildlife entry, if the district director of Customs has knowledge of a foreign law or regulation obliging enforcement of section 527(a), Tariff Act of 1930 (19 U.S.C. 1527(a)), unless the importation is an excepted transaction entitled to entry under the provisions of section 527(c) of the Tariff Act or, in connection with the entry, there is presented documentation it either manner specified in 50 CFR 17.4(c) (1) or (2) required for import transactions subject to foreign laws or regulations regarding taking, transportation, or sale of wildlife including wild mammals and birds or parts or products thereof (see § 12.26). (80 Stat. 379, 62 Stat. 687, as amended, R.S. 251, sec. 527, 46 Stat. 741; 18 U.S.C. 42, 19 U.S.C. 1527) **[CIEs 2764/31, 3746/31; 716/32,/31. TDs 44407, 44412, 44413, 44436, 44437, 44438, 44674, 45860, 46255, 48173, 48349, 48468, 48709, 49103, 49378, 49443, 49475, 49548, 50217, 50260, 50329, 50950, 52073, 52339, 52469, 53005, 53399, 53866, 70-242.]**

§ 12.29 Plumage and eggs of wild birds.

(a) The provisions of schedule 1, part 15D, headnote 2, Tariff Schedules of the United States,[16] relating to the

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[14] "Whoever delivers, carries, transports, ships, by any means whatever, or knowingly receives for shipment, to or from any State, territory, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, or any foreign country, any wild mammal or bird of any kind, or the dead body or parts thereof, or the offspring or eggs therefrom, as the case may be, which was captured, killed, taken, purchased, sold, or otherwise possessed or transported in any manner contrary to any Act of Congress or regulation issued pursuant thereto or contrary to the laws or regulations of any State, territory, the District of Columbia, the Commonwealth of Puerto Rico, possession of the United States, or foreign country; or

"Whoever receives, acquires, or purchases, knowingly, any such wild mammal or bird of any kind or the dead body or parts thereof, or the offspring or eggs therefrom, which was so transported, delivered, carried or shipped by any means whatsoever, as aforesaid, or

"Whoever, having acquired any of the foregoing properties which was so transported, delivered, carried, or shipped by any means whatever, as aforesaid, makes any false record, account, label or identification thereof; or

"Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

"Shall be fined not more than $500 or imprisoned not more than six months, or both; and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited" (18 U.S.C. 43).

"Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

"Shall be fined not more than $500 or imprisoned not more than six months, or both, and the shipment shall be forfeited" (18 U.S.C. 44).

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, may arrest any person violating said sections in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections" (18 U.S.C. 3054).

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, shall have authority to execute any warrant to search for and seize any property used or possessed in violation of said sections and property so seized shall be held by him or by the U.S. marshall pending disposition thereof by the court" (18 U.S.C. 3112).

[16] "2(a) Except as provided in (b) and (c) of this headnote, the importation of the feathers or skin of any bird is hereby prohibited. Such prohibition shall apply to the feathers or skin of any bird—

"(i) whether raw or processed;

"(ii) whether the whole plumage or skin or any part of either;

"(iii) whether or not attached to a whole bird or any part thereof; and

"(iv) whether or not forming part of another article.

"(b) Headnote 2(a) shall not apply—

[Footnote continued on next page]

plumage of any bird, apply to all such plumage, whether imported separately or upon the bird itself, except (1) the feathers of birds specifically excepted by said headnote 2, (2) plumage imported for scientific or educational purposes, (3) fully-manufactured artificial flies used for fishing, (4) plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purposes, and (5) plumage on live wild birds. **[TDs 33781, 33799, 33995, 34518, 34748, 35307, 38565, 39051, 46255, 47127, 49948, 43066, 53251, 55978.]**

(b) The feathers or skins of certain birds may be imported for use in the manufacture of artificial flies used for fishing or for millinery purposes only under a permit issued by the Fish and Wildlife Service, United States Department of Interior, Washington D.C. 20240.[16] No feathers or skins of the pro-species provided for by schedule 1, part 15 D, headnote 2, Tariff Schedules of the United States, shall be permitted to be entered, or withdrawn from warehouse, for consumption, unless the requisite permit is presented with the entry or withdrawal. **[TDs 53251, 55978.]**

(c) The importation of the eggs of wild nongame birds is prohibited except as dead natural history specimens for museum or scientific collection purposes.[16a] The eggs of migratory birds may be imported for propagating purposes or for scientific and other limited purposes under permits issued by the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import the eggs of migratory birds without a permit (50 CFR 16.3). The eggs of certain game or migratory birds imported for hatching, such as ducks, geese, swans, turkeys, pigeons, doves, pheasant, grouse, partridges, quail, guinea fowl, and pea fowl, are subject to the regulations of the Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Washington, D.C. 20250.[16b] Such regulations require that permits, except for eggs from Canada offered for entry at certain land border ports, must be obtained before the eggs are shipped from the country of origin and that all eggs shall be accompanied by a certificate issued by a national government veterinarian of the country of origin and inspected at a designated port of entry. **[TDs 52469, 53102, 53866, 66-68, 78-99]**

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by schedule 1, part 4E, headnote 1, Tariff Schedules of the United States,[17] the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the district director shall proceed to forfeit them under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $2,500. **[TDs 52469, 53866, 55978.]**

§ 12.30 Whaling.

The importation and exportation of whales or whale products taken or processed in violation of the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946,[17a] or of the Whaling Convention Act of 1949,[17b] or of any regulation issued under the said act, [17c] is unlawful. Customs officers

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[Footnote continued from last page]

"(i) in respect of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl;

"(ii) to any importation for scientific or educational purposes;

"(iii) to the importation of fully-manufactured artificial flies used for fishing;

"(iv) to the importation of birds which are classifiable under item 813.20 of schedule 8; and

"(v) to the importation of live birds.

"(c) Notwithstanding headnote 2(a), there may be entered in each calendar year the following quotas of skins bearing feathers:

"(i) for use in the manufacture of artificial flies used for fishing: (A) not more than 5,000 skins of grey jungle fowl (*Gallussonneratii*), and (B) not more than 1,000 skins of mandarin duck (*Dendronessa galericulata*); and

"(ii) for use in the manufacture of artificial flies used for fishing, or for millinery purposes, not more than [illegible],000 skins, in the aggregate, of the following species of pheasant: Lady Amherst pheasant (*Chrysolophusamherstiae*),, golden pheasant (*Chrysolophuspictus*), silver pheasant (*Lophuranycthemera*), Reeves pheasant (*Syrmaticusreevesii*), blue-eared pheasant (*Crossoptilonauritum*), and brown-eared pheasant (*Crossoptilonmantchuricum*).

For the purposes of these quotas, any part of a skin which has been served shall be considered to be a whole skin.

"(d) No article specified in headnote 2(c) shall be entered except under a permit issued by the Secretary of the Interior. The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes and provisions of headnote 2(c) (including regulations providing for equitable allocation among qualified applicants of the import quotas established by such provisions). Whenever the Secretary of the Interior finds that the wild supply of any species mentioned in headnote 2(c) is threatened with serious reduction or with extinction, he shall prescribe regulations which provide (to such extent and for such period as he deems necessary to meet such threat)—

"(i) in the case of grey jungle fowl or mandarin duck, for the reduction of the applicable import quota;

"(ii) in the case of any species of pheasant, for the reduction of the import quota established for pheasants, for the establishment of a subquota for such species of pheasant, or for the elimination of such species from the import quota for pheasants, or any combination thereof.

The authority granted to the Secretary of the Interior by the preceding sentence to reduce any import quota shall include authority to eliminate such quota.

"(e) Any article of a kind the importation of which is prohibited or subjected to a quota by headnotes 2(a), (b), and (c) and which is in the United States shall be presumed for the purposes of seizure and forfeiture to have been imported in violation of law and shall be seized and forfeited under the customs laws unless such presumption is satisfactorily rebutted; except that such presumption shall not apply to articles in actual use for personal adornment or for scientific or educational purposes. Any article so forfeited may (in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe) (1) be placed with any agency of the Federal Government or of any State government, or any society or museum, for exhibition or scientific or educational purposes, or (2) be destroyed.

"(f) Nothing in these headnotes shall be construed to repeal the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States. If on investigation by the collector before seizure, or before trial for forfeiture, or if at such trial if such seizure has been made, it shall be made to appear to the collector, or the prosecuting officer of the Government, as the case may be, that no illegal importation of such feathers has been made, but that the possession, acquisition or purchase of such feathers is or has been made in violation of the provisions of the Act of March 4, 1913, chapter 145 (Thirty-seventh Statutes at Large, page 847), or the Act of July 3, 1918 (Fortieth Statutes at Large, page 755), or any other law of the United States, now of force, intended for the protection or preservation of birds within the United States, it shall be the duty of the collector, or such prosecuting officer, as the case may be, to report the facts to the proper officials of the United States, or State or Territory charged with the duty of enforcing such laws." (Schedule 1, part 15D, headnote 2, Tariff Schedule of the United States.)

For permit regulations of the United States Fish and Wildlife Service, Department of Interior, see 50 CFR, Part 14.

[16a] See 50 CFR 13.6.

[16b] See Appendix XII, Customs Regulations of 1943, quoting 9 CFR, Part 92.

[17] "1. The importation of eggs of wild birds is prohibited, except eggs of game birds imported for propagating purposes under regulations prescribed by the Secretary of the Interior, and specimens imported for scientific collections." (Schedule 1, part 4E, headnote 1, Tariff Schedules of the United States.) (Sec. 101, 76 Stat. 72; Sc, pt. 4E, headnote 1, part 15D, headnote 2, Tariff Schedules of the United States)

[17a] Publication No. 3383 Dept. of State, Whaling Convention.

[17b] 16 U.S.C. 916-916(1).

[17c] Regulations of the International Whaling Commission are codified in 50 CFR, Part 351.

and employees shall perform all functions required of them by the above-mentioned convention, law, and regulations. **[TDs 49781, 53244.]**

§ 12.31 Injurious insects.

The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the Secretary of Agriculture, is prohibited.[18] All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs of that Department for inspection and determination of their admissibility into the United States. **[TD 49476 (5), BCLs 1945/39, 1988/39, 78-99.]**

§ 12.32 Honeybees.

The importation into the United States of adult honeybees, except by the Department of Agriculture for experimental or scientific purposes, is prohibited,[19] unless such importation is from a country in respect of which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist therein. The importation of adult honeybees that may be lawfully imported is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in Treasury Decisions from time to time. **[TDs 44908, 51789, 52492.]**

Tea

§ 12.33 Importation of tea; entry; examination for customs purposes.

(a) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards prescribed by the Act of March 2, 1897, as amended (21 U.S.C. 41-50), is prohibited.[20] Customs officers and employees shall perform all duties required of them by the said act and regulations. **[TDs 21439, 24874, 25903, 35244, 38470, 42344, 51666, 52492, 52543, 53399. CIE 450/40, 78-99.]**

(b) The importation of tea is subject also to the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder. See § § 12.1 to 12.5.

(c) All entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used.

(d) The district director may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation shall be made of packages for examination in public stores.

(e) If the invoice has not been received, the importer may use an additional copy of the chop list and release permit required by the regulations of the Department of Health, Education, and Welfare as a pro forma invoice, marking "Pro forma invoice" across the face thereof. **[TDs 53869, 55629.]**

White Phosphorus Matches

§ 12.34 Importation prohibited; certificate of inspection; importer's declaration.

(a) The importation into the United States of white phosphorus matches is prohibited.[21] **[TDs 32975, 55978.]**

(b) Invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form: **[TDs 33127, 33360, 54056.]**

Certificate of Official Inspection of Matches

____

____

I, ——————————(Name), do hereby certify that I am the ———————— (Official title), that according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912;

Numbers of case mark	Description of matches	Name and address of manufacturing	Name of consignee and address, vessel, and date of shipment

____
(Signature)

____
(Official title)

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[18] "No railroad, steamboat, express, stage, or other transportation company shall knowingly transport from one State or Territory into any other State or Territory, or from the District of Columbia into a State or Territory, or from a State or Territory into the District of Columbia, or from a foreign country into the United States, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insect in a live state which are notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid, except when shipped for scientific purposes under the regulations hereinafter provided for; nor shall any person remove from one State or Territory into another State or Territory, or from a foreign country into the United States, or from a State or Territory into the District of Columbia, or from the District of Columbia into any State or Territory, except for scientific purposes under the regulations hereinafter provided for, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insects in a live state which is notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid." (7 U.S.C. 141) (Sec. 1, 33, Stat. 1269; 7 U.S.C. 141)

[19] "In order to prevent the introduction and spread of 2 diseases dangerous to the adult honeybee, the importation into the United States of the honeybee (Apis mellifica) in its adult stage is hereby prohibited, and all adult honeybees offered for import into the United States shall be destroyed if not immediately exported: *Provided*, That such adult honeybees may be imported into the United States for experimental or scientific purposes by the United States Department of Agriculture: *And provided further*, That such adult honeybees may be imported into the United States from countries in which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist, under rules and regulations prescribed by the Secretary of the Treasury and the Secretary of Agriculture." (7 U.S.C. 281) (Sec. 1, 42 Stat. 833; 7 U.S.C. 281)

[20] See Appendix XV, Customs Regulations of 1943.

[21] "White phosphorous matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the government of the country in which such matches were manufactured as shall satisfy the Secretary [of the Treasury] that they are not white phosphorus matches. The Secretary [of the Treasury] is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section." (26 U.S.C. 2654)

"For the purposes of this chapter the words 'white phosphorus' shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus." (26 U.S.C. 2650)

"The importation of white phosphorus matches is prohibited." (Schedule 7, Part 9A, Headnote 1, Tariff Schedules of the United States.)

(c) In the absence of such certificate, the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(d) The production of the above certificate shall not be required on the entry of matches manufactured in countries which prohibit the use of white or yellow phosphorus in the manufacture of matches. **[TDs 33158, 33248, 33399, 33441, 33804, 35276, 39014, 40067, 43300, 43438.]**

(e) At the time of filing an entry for imported matches, the importer shall make a declaration that to the best of his knowledge and belief no matches included in the invoice and entry are white phosphorus matches. (68A Stat. 569, 570, sec. 101, 76 Stat. 72; 26 U.S.C. 4802, 4805(a); Sch. 7, pt. 9A, hdnote. 1, Tariff Schedules of the United States)

§ 12.35 Exportation.

(a) The exportation from the United States of white phosphorus matches is unlawful.[22] **[TD 32975.]**

(b) The shipper, owner, or agent of matches intended for exportation from the United States shall file with the district director at least 6 hours before such matches, are laden for exportation a manifest, in duplicate, signed by the shipper, which shall state the date of exportation, the name of the exporting carrier, the marks and numbers of the packages, and the specific descriptions of the matches. There shall be attached to the manifest an affidavit of the shipper that no white phosphorus matches are included in the shipment. **[TD 53399.]**

(c) The district director may cause any matches offered for exportation to be opened and inspected. If any such matches are found to be white phosphorus matches, the district director shall detain them and report the facts to Headquarters for instructions. (Sec. 68A Stat. 570; 26 U.S.C. 4805(b))

Narcotic Drugs

§ 12.36 Regulations of Bureau of Narcotics.

The importation and exportation of narcotic drugs are governed by regulations of the Drug Enforcement Administration Bureau of Narcotics.[23] Customs officers and employees shall perform all duties imposed upon them by such regulations and the laws under which they are issued. Such regulations are in addition to, and not in lieu of, the Customs, internal-revenue, and other pertinent laws and regulations. **[TDs 5191, 34221, 35080, 38381, 39055, 39154, 39308, 39503, 39618, 52492, 78-99.]**

Liquors

§ 12.37 Restricted importations.

(a) The basic permit requirements prescribed by the act of August 29, 1935 (27 U.S.C. 203),[24] shall not be deemed applicable when the district director is satisfied that the liquor is for personal use or for experimental purposes in the making of analyses, tests, or comparisons. **[TDs 47855, 52469, 53399, 78-329]**

(b) The production of a basic permit shall not be required when spirits are withdrawn from warehouse under any form of withdrawal entry.

(c) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses, shall not be permitted unless the proprietor has obtained an appropriate permit from the Bureau of Alcohol, Tobacco, and Firearms. (Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203.)

§ 12.38 Labeling requirements; packages.

All packages of liquor not labeled as required by 18 U.S.C. 1263[25] and any vessel or vehicle, other than a common carrier, used in the transportation of such liquor shall be seized and disposed of in accordance with 18 U.S.C. 3615[25] (see 171.22(b) of this chapter). **[FAA TD 6. TDs 30393, 47855, 48448, 48711, 52025, 52469, 70-249.]**

Unfair Competition

§ 12.39 Imported articles involving unfair methods of competition or practices.

(a) *Determinations of the International Trade Commission.*—Under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), unfair methods of competition and unfair practices in the importation or sale of articles, the effect or tendency of which is to destroy, substantially injure, or prevent the establishment of an efficiently and economically operated U.S. industry, or to restrain or monopolize trade and commerce in the United States, are unlawful. After an investigation of an alleged violation of section 337, the U.S. International Trade Commission ("the Commission") may determine that section 337 has been violated. The Commission also may determine during the course of its investigation that there is reason to believe that a violation of section 337 exists. The Commission's determination in either case is effective on the date of its publication in the Federal Register and is referred to the President, who may disapprove the determination for policy reasons on or before the close of a 60-day period beginning on the day after the day he receives a copy of the determination. A Commission determination disapproved by the President shall have no force or effects as of the date the Commission is notified of his disapproval. If the Commission's determination is not disapproved by the President during the 60-day period, or if he notifies the Commission before the close of the period that he approves the determination, the determination becomes final on the day after the close of the period or the day of the notification, whichever is earlier. **[TDs 41655, 42257, 42801, 44411, 44491, 44675, 44776, 44977, 47001, 47168, 47179, 47225, 47393, 47571, 48121, 48129, 48385, 48628, 48845, 50082, 51238, 72-327, 79-231.]**

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[22] "It shall be unlawful to export from the United States any white phosphorus matches. The Secretary [of the Treasury] shall have powers to issue such regulations to customs officers as are necessary to the enforcement of this section." (26 U.S.C. 2655)

[23] See Appendix XVI, Customs Regulations of 1943.

[24] "(a) It shall be unlawful except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

* * * * *

"(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; * * *

"(b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

"(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; * * *

"* * * This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter." (27 U.S.C. 203).

[25] "Whoever knowingly ships into any place within the United States, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package is so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than $1,000 or imprisoned not more than one year, or both." (18 U.S.C. 1263)

"All liquor involved in any violation of sections 1261–1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws." (18 U.S.C. 3615) (Sec. 1, 62 Stat. 840; 18 U.S.C. 3615)

(b) *Exclusion from entry; entry under bond.*—(1) If the Commission finds a violation of section 337, or reason to believe that a violation exists, it may direct the Secretary of the Treasury to exclude from entry into the United States the articles concerned which are imported by the person violating or suspected of violating section 337. The Commission's exclusion order remains in effect until the Commission determines, and notifies the Secretary of the Treasury, that the conditions which led to the exclusion no longer exist, or until the determination of the Commission on which the order is based is disapproved by the President.

(2) During the period the Commission's exclusion order remains in effect, excluded articles may be entered under a special rider to existing entry bonds, as described in section 113.14(z) of this chapter. However, on or after the date that the Commission's determination of a violation of section 337 becomes final, as set forth in paragraph (a) of this section, articles covered by the determination shall be refused entry.

(3) District directors shall notify each importer or consignee of articles released under bond pursuant to paragraph (b)(2) of this section when the Commission's determination of a violation of section 337 becomes final and that entry of the articles is refused. The importer or consignee shall export or destroy the released articles under Customs supervision within 30 days after the date of notification. The district director who released the articles shall assess liquidated damages in the full amount of the bond rider if the importer or consignee fails to export or destroy the released articles under Customs supervision within the 30-day period. **[TDs 45474, 72-231, 79-231.]**

(c) *Certain importations by or for the United States.*—Any exclusion from entry under section 337 based on claims of U.S. letters patent shall not apply to articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. (Secs. 337, 623, 46 Stat. 703, as amended, 759, as amended; 19 U.S.C. 1337, 1623) **[TDs 44675, 48154, 72-327, 72-231, 79-231.]**

§ 12.39a Registered patent owners; import survey.

(a) When the owner of a patent registered in the United States believes that merchandise is being imported into the United States which infringes such patent, an application for a survey to assist the patent owner in taking appropriate action may be made. The purpose of the survey is to provide the patent owner with the names and addresses of importers of merchandise which appears to infringe the registered patent. **[TDs 56137, 72-327.]**

(b) The application may be made by letter addressed to the Commissioner of Customs, Washington, D.C. 20229. It shall state the name and address of the patent owner; and if available, a description of the merchandise believed to infringe the registered patent and the country of manufacture of the merchandise. There shall be submitted with the application a certified copy of the patent issued by the United States Patent Office showing ownership to be in the ame as claimed; 600 soft copies of the patent for distribution to the various ports of entry, and a check or money order to cover the fee prescribed by § 24.12(a)(3) of this chapter for the survey selected.

(c) Surveys will be made for periods of 2, 4 or 6 months at the option of the applicant.

Immoral Articles

§ 12.40 Seizure; disposition of seized articles; reports to United States attorney.

(a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930, shall be transmitted to the United States attorney for his consideration and action. **[U.S. v. One Package, 86 Fed. (2d) 737. TDs 53268, 71-165.]**

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter described in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee. **[TD 53399.]**

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture, Customs Form 4607, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture duly executed, the articles shall be destroyed if not needed for official use and the case closed. **[TDs 44293, 44766, 53866, 76-261.]**

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles. **[TD 52025.]**

(e) If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege so to do, a petition under section 618, Tariff Act of 1930, for the remission of the forfeiture and permission to export the seized merchandise, information concerning the seizure shall be submitted to the United States attorney in accordance with the provisions of the second paragraph of section 305(a), Tariff Act of 1930, for the institution of condemnation proceedings.

(f) If seizure is made of books or or other articles which do not contain obscene matter but contain information or advertisements relative to means of causing abortion, the procedure outlined in paragraphs (b), (c), (d), and (e) of this section shall be followed. **[TD 71-165.]**

(g) In any case when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury with evidence to support the claim may be filed by the importer for release of the book. Mere unsupported statements or allegations will not be considered. If the ruling is favorable, release of such book shall be made only to the ultimate consignee. **[TDs 42907, 43600, 44342, 44684(7), 46042(1), 47412.]**

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for inducing abortion, such drug or medicine shall be detained or seized. (Secs. 305, 624, 46 Stat. 688, as amended, 759; 19 U.S.C. 1305, 1624) **[TD 71-165.]**

§ 12.41 Prohibited films.

(a) Importers of films, shall certify on Customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. When imported films are claimed to be free of duty as American goods returned, this certification may be made on Customs Form 3311 in the space designated "Remarks" in lieu of on Form 3291. **[TDs 53268, 53336.]**

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified employee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from Headquarters, U.S. Customs Service or a decision of the court as to its final disposition. (Sec. 305, 46 Stat. 688, as amended; 19 U.S.C. 1305)

Merchandise Produced By Convict, Forced, or Indentured Labor

§ 12.42 Findings of Commissioner of Customs.

(a) If any district director or other principal Customs officer has reason to believe that any class of merchandise which is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions so as to come within the purview of the first sentence of section 307, Tariff Act of 1930,[29] he shall communicate his belief to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the district director or other officer or readily available to him. **[TDs 33889, 44385, 45357, 53408, 53953.]**

(b) Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any district director or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad. If the foreign merchandise is believed to be mined, produced, or manufactured with the use of forced labor or indentured labor under penal sanctions, such communication shall also contain (4) detailed information as to the production and consumption of the particular class of merchandise in the United States and the names and addresses of domestic producers likely to be interested in the matter.

(c) If any information filed with a district director pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the district director within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the district director. **[TD 53953.]**

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

(e) If the Commissioner of Customs finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all district directors accordingly and the district directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation.

(f) If it is determined on the basis of the foregoing that the merchandise is subject to the provisions of the said section 307, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the Federal Register. **[TD 54132.]**

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[29] "All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

" 'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." (Tariff Act of 1930, sec. 307; 19 U.S.C. 1307.)

(g) Any merchandise of a class specified in a finding made under paragraph (f) of this section, which is imported directly or indirectly from the locality specifed in the findings and has not been released from Customs custody before the date of publication of such finding in the Federal Register shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930, unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of a class of labor specified in the finding. **[TD 54725.]**

(h) The following findings made under the authority of section 307, Tariff Act of 1930 are currently in effect with respect to the merchandise listed below: (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307) **[TDs 52655, 54132, 55342.]**

Merchandise	Country	T.D.
Furniture, clothes hampers, and palm leaf bags......	Ciudad Victoria, Tamaulipas, Mexico.	53408 54725.

§ 12.43 Proof of admissibility.

(a) If an importer of any article detained under § 12.42(e) or (g) desires to contend that the article was not mined, produced, or manufactured in any part with the use of a class of labor specified in section 307, Tariff Act of 1930, he shall submit to the Commissioner of Customs within 3 months after the date the article was imported a certificate of origin in the form set forth below, signed by the foreign seller or owner of the article. If the article was mined, produced, or manufactured wholly or in part in a country other than that from which it was exported to the United States, an additional certificate in such form and signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted. **[TDs 53953, 54056.]**

Certificate of Origin

I, ——————————, foreign seller or owner of the merchandise hereinafter described, certify that such merchandise, consisting of ——————————(Quantity) of —————————— (Description) in ——————————————(Number and kind of packages) bearing the following marks and numbers —————— ———was mined, produced, or manufactured by ———————— ——(Name) at or near ————————————, and was laden on board ——————————————(Carrier to the United States) at — —————————(Place of lading) (Place of final departure from country of exportation) which departed from on ———————— ; (Date); and that ——————————————(Class of labor specified in finding) was not employed in any stage of the mining, production, or manufacture of the merchandise or of any component thereof.

Dated ————————

(Signature)

(b) The importer shall also submit to the Commissioner of Customs within such 3-month period a statement of the ultimate consignee of the merchandise, showing in detail that he had made every reasonable effort to determine the source of the merchandise and of every component thereof and to ascertain the character of labor used in the production of the merchandise and each of its components, the full results of his investigation, and his belief with respect to the use of the class of labor specified in the finding in any stage of the production of the merchandise or of any of its components.

(c) If the certificate or certificates and statements specified in paragraphs (a) and (b) of this section are submitted within the time prescribed and the Commissioner finds that the merchandise is admissible, the collector of customs concerned will be advised to that effect, whereupon he shall release the merchandise upon compliance with the usual entry requirements. (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307)

§ 12.44 Disposition.

Merchandise detained pursuant to § 12.42 may be exported at any time before it is deemed to have been abandoned as hereinafter provided for. If it has not been exported within 3 months after the date of importation, the district director shall ascertain whether the proof specified in § 12.43 has been submitted within the time prescribed in that section. If the proof has not been so submitted, or if the Commissioner of Customs advises the district director that the proof furnished does not establish the admissibility of the merchandise, the district director shall promptly advise the importer in writing that the merchandise is excluded from entry. Upon the expiration of 60 days after the delivery or mailing of such advice by the district director, the merchandise shall be deemed to have been abandoned and shall be destroyed, unless it has been exported or a protest has been filed as provided for in section 514, Tariff Act of 1930. (Sec. 307, 46 Stat. 689; 19 U.S.C. 1307) **[TD 53953.]**

§ 12.45 Transportation and marketing of prison-labor products.

If any apparent violation of section 1761 or 1762, title 18, United States Code,[30] with respect to any imported article comes to the attention of a district director, he shall detain the article and report the facts to the appropriate United States attorney. If the United States attorney advises the district director that action should be taken against the article, it shall be seized and held pending the receipt of further instructions from the United States attorney or the court. **[TD 53953.]**

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[30] "(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State." (18 U.S.C. 1761.)

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

"(b) Whoever violates this section shall be fined not more than $1,000, and any goods, wares or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law." (18 U.S.C. 1762.)

Counterfeit Coins, Obligations, and Other Securities; Illustrations or Reproductions of Coins or Stamps

§ 12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

(a) In accordance with Chapter 25, Title 18, United States Code, any token, disk, or device in the likeness or similitude of any coin of the United States or of a foreign country; counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States[31] or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing, when brought into the United States, shall be seized, and delivered to the nearest representative of the United States Secret Service, together with a report of the facts, for appropriate disposition. **[TDs 25403, 29444, 52025, 52469, 53399. 20 Op. A. G. 697; 21 Op. A. G. 136.]**

(b) In accordance with section 504 of title 18, United States Code, the printing, publishing, or importation or the making or importation of the necessary plates for such printing or publishing for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums) of black and white illustrations of canceled and uncanceled United States postage stamps shall be permitted. **[TD 54970.]**

(c) The importation (but not for advertising purposes except philatelic advertising) of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation shall be permitted. **[TD 54970.]**

(d) Printed matter of the character described in section 504, title 18, United States Code,[32] containing reproductions of postage or revenue stamps, executed in accordance with any exception stated in section 504, or colored reproductions of canceled foreign postage stamps may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be treated as prohibited importations. If no application for exportation or assent to forfeiture and destruction is received by the district director within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture. **[TDs 31917, 42736, 52970, 53399, 54970.]**

Fur-Seal or Sea-Otter Skins

§ 12.60 Importation prohibited.

The transportation, importation, sale, or possession of the skins of fur seals or sea otters is prohibited if such skins were taken contrary to the provisions of section 2 of the act of February 26, 1944 (58 Stat. 100-104)[36] or, the case of such skins taken under the authority of the act or any fur-seal agreement, if the skins are not officially marked and certified as required by section 2 of the act. Sec 16[37] makes the act inapplicable to skins taken for scientific purposes under a special permit. **[TD 51274.]**

§ 12.61 Fur-seal or sea-otter skins permitted entry.

(a) Fur-seal or sea-otter skins taken by Indians, Aleuts, or other aborigines under the authority of section 3 of the act,[38] fur-seal skins taken under the authority of the Canadian Government, and fur-seal skins taken on the Pribilof Islands and other specified areas under the authority of section 4 of the act[39] shall be admitted to entry if officially marked and certified as having been lawfully taken and if accompanied by a declaration of the shipper identifying the skins by marks and numbers as those covered by the official certificate. **[TDs 51274, 53268.]**

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[31] "The term 'obligations or other security of the United States' includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposits, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any act of Congress, and canceled United States stamps." (18 U.S.C. 8.)

[32] Notwithstanding any other provision of this chapter, the following are permitted:

(1) the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of black and white illustrations of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation for philatelic, numismatic, educational, historical or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums). Such illustrations, except those of stamps, shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of such obligation or security. The negatives and plates used in making the illustrations shall be destroyed after their final use for the purpose for which they were made.

(2) the making or importation, but not for advertising purposes except philatelic advertising, of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purpose of paragraph (1), without the permission of the Secretary of the Treasury (18 U.S.C. 504.)

[36] "It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean; or for any person or vessel to engage in sealing; or for any person or vessel to use any port or harbor or other place subject to the juriadiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing; or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the juriadiction of the United States, or raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 3 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the juriadiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal ement and which have been officially marked and certified as having been so taken." (Sec. 2, 58 Stat. 101)

[37] "Nothing contained in this act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary." (Sec. 16, 58 Stat. 104) (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631q)

[38] "Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practiced by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been officially marked and certified as provided in section 2 of this act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea otter hunting under contract to deliver the skins to any person." (Sec. 3, 58 Stat. 101)

(b) Fur-seal or sea-otter skins taken in waters or on land not specified in the act or in the fur-seal agreement with Canada[40] or other fur-seal agreement shall be admitted to entry upon the production of evidence satisfactory to the district director that they have been so taken.

§ 12.62 Enforcement; duties of Customs officers.

(a) In accordance with the authority contained in sections 10 and 12[41] of the act, Customs officers shall arrest or cause to be arrested persons violating the provisions of the act or of any regulation made pursuant thereto; shall search vessels when there is reasonable cause to believe that such vessels are subject to seizure under the act, shall seize any vessel used or employed or which it appears has been or is about to be used or employed in violation of the act or any regulation made pursuant thereto; and shall seize fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed by any person contrary to the provisions of the act or of any regulation made pursuant thereto. **[TD 51274.]**

(b) All articles, including vessels and equipment, seized by Customs officers for violation of the act shall be turned over to the nearest officer or agent of the Fish and Wildlife Service, Department of the Interior, for appropriate disposition under the act, receipts to be taken in duplicate therefor. One copy of each such receipt shall be transmitted to Headquarters, U.S. Customs Service with a detailed report of the facts in the particular case involved. (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631g.)

§ 12.63 Seal-skin or sea-otter-skin waste.

Seal-skin or sea-otter-skin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be subject to the requirements of the regulations in this part. (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631g.) **[TD 51975.]**

Entry of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act, as Amended

§ 12.73 Federal motor vehicle air pollution control.

(a) *Standards prescribed by the Department of Health, Education, and Welfare or the Environmental Protection Agency.* Certain new motor vehicles and new motor vehicle engines are subject to emission standards prescribed by the U.S. Environmental Protection Agency or the Department of Health, Education, and Welfare under section 202 of the Clean Air Act, as amended (42 U.S.C. 1857f-1, sec. 6, Public Law 91-604), as set forth in regulations in 40 CFR Part 85. For purposes of this section, "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway, and "new motor vehicle" and "new motor vehicle engine" mean a motor vehicle or engine, respectively, manufactured after the effective date of a regulation issued under section 202 of the Act which is applicable to such vehicle or engine (or would have been applicable to such vehicle or engine had it been manufactured for importation into the United States). **[TDs 67-196, 72-45.]**

(b) *Requirements for entry and release.* Each motor vehicle or motor vehicle engine offered for importation or imported into the Customs territory of the United States shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which contains: **[TD 72-45.]**

(1) The name and address of the importer and the consignee;

(2) The make, model, and model year of the vehicle or engine;

(3) The vehicle identification number of such vehicle, or the serial number of such engine (if not chassis mounted);

(4) The date of entry, the vessel or carrier of importation, the port or point of entry, and the entry number (where applicable);

(5) A statement that—

(i) Such 1968, 1969, or 1970 model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards; or

(ii) Such 1971 or subsequent model year motor vehicle or motor vehicle engine is covered by a certificate of conformity with Federal motor vehicle emission standards and is tagged or labeled in accordance with applicable regulations in 40 CFR Part 85; or

(iii) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, is being imported solely for purposes of display and will not be sold or operated on the public streets or highways; or

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[39] "In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secretary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultation between the Government of the United States and the Government of Canada in accordance with the provisions of article II of the Provisional Fur Seal Agreement of 1942." (Sec. 4, 58 Stat. 101)

[40] "The provisions of this Agreement shall apply to all water of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian." (Art. I, Provisional Fur Seal Agreement of 1942 between the United States and Canada, E. A. S. 415, 58 Stat. 1379) (Secs. 1-17, 58 Stat. 100, 101, as amended, 102-104; 16 U.S.C. 631a-631q)

[41] "Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy collector of customs, and any other person authorized by law to enforce the provisions of this act shall have power, without warrant, to arrest any person committing a violation of this act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person." (Sec. 10, 58 Stat. 102)

"It shall be the duty of all collectors of customs to enforce the provisions of this act with respect to the importations of the skins of fur seal and sea otter." (Sec. 12, 58 Stat. 103)

(iv) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, and the importer or consignee is a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to 59 Stat. 669 (22 U.S.C. 288(b)) on assignment in the United States or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State, and that such vehicle or engine will not be sold in the United States; or

(v) The importer or consignee is a nonresident of the United States importing such motor vehicle or motor vehicle engine solely for personal use for a period not exceeding 1 year, and such vehicle or engine will not be sold in the United States; or

(vi) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, is being imported solely for purposes of testing, and will not be sold or operated on the public streets or highways except in accordance with 40 CFR 85.201, or

(vii) Such motor vehicle or motor vehicle engine is intended solely for export; or

(viii) Such motor vehicle or motor vehicle engine is not subject to the Clean Air Act or regulations thereunder for reasons specified in the declaration; or

(ix) Such motor vehicle or motor vehicle engine is one of a class of vehicles or engines for which an application for certification of conformity is pending before the Administrator of the U.S. Environmental Protection Agency and is being imported under bond in accordance with 40 CFR 85.202 pending issuance of such certification; or

(x) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards but will be brought into conformity with such standards and is being imported under bond in accordance with 40 CFR 85.203; or

(xi) Neither the importer nor the consignee possess sufficient information to make any of the preceding declarations but the importer or consignee will seek to determine such information, and such motor vehicle or motor vehicle engine is being imported under bond in accordance with 40 CFR 85.204.

(c) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(5)(ix), (x), or (xi) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of a declaration that the vehicle is in conformity with Federal emission standards or, in the case of an entry made under circumstances described in paragraph (b)(5)(xi) of this section, for the production of an appropriate declaration under paragraph (b)(5)(i) through (x) of this section. The bond shall be in the amount required under § 113.14 of this chapter. Within 90 days after such entry, or such additional period as the district director of Customs may allow for good cause shown, the importer or consignee shall deliver to the district director the prescribed declaration. If the declaration is not delivered to the district director of Customs for the port of entry of such vehicles or engines within 90 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director of Customs those motor vehicles or motor vehicle engines which were released in accordance with this paragraph. In the event that any such motor vehicle or motor vehicle engine is not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551. **[TD 74-227.]**

(d) *Merchandise refused entry.* If a motor vehicle or motor vehicle engine is denied entry under the provisions of paragraph (b) of this section, the district director of Customs shall refuse to release the merchandise for entry into the United States and shall give notice of such refusal to the importer. **[TD 72-45.]**

(e) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Motor vehicles or motor vehicle engines which are denied entry under paragraph (b) of this section or which are redelivered in accordance with paragraph (c) of this section and which are not exported under customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations: *Provided, however,* That any such disposition shall not result in an introduction into the United States of a motor vehicle or motor vehicle engine not covered by a certificate of conformity with Federal motor vehicle emission standards. **[TD 72.45]**

(f) *Prohibited importations.* The importation of motor vehicles and motor vehicle engines, otherwise than in accordance with the provisions of this section, is prohibited. (Sec. 484, 46 Stat. 722, as amended, sec. 203, 79 Stat. 993, as amended; 19 U.S.C. 1484, 42 U.S.C. 1857f-2, 1857g) **[TD 72-45.]**

Motor Vehicles and Motor Vehicle Equipment Manufactured On or After January 1, 1968

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.*—Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the act"), and set forth in 49 CFR part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured. **[TD 68-16, 68-305, 71-122, 74-227, 78-478.]**

(b) *Requirements for entry and release.*

(1) Unless the requirement for filing is waived by the district director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR pts. 555, 567, 568, and 571) under section 114 of the act (15 U.S.C. 1403).

(iii) The vehcile or equipment item was not manufactured in conformity with all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administration ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the district director stating that the conditions of the bond required by paragraph (e)(1) of this section have been satisfied.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States; a member of the secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State; is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the Embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of show, test, experiment, competition (a vehicle the configuration of which at the time of entry is such that it cannot be licensed for use on the public roads is considered to be imported for the purpose of competition), repair, or alteration, and the statement required by 19 CFR 12.80 (c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as defined in section 102 of the act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b) (1) (vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle may be licensed for use on the public roads for one or more further periods which, when added to the initial 1-year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) *Declaration; contents.*

(1) Each declaration filed under paragraph (b) (1) of this section shall include the name and address in the United States of importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification numbers (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item imported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully describing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completing of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) *Declaration; disposition.*—The district director shall forward the original of each declaration submitted to him under paragraph (b) (1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20590.

(e) *Release under bond.*

(1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs form 7551,

7553, or 7595 in the amount required by section 113.14 of this chapter. A condition of the bond shall be the production of an approval (bond release) letter from the Administrator, NHTSA, stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards. The bond release letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The bond release letter shall be forwarded by the Administrator, NHTSA, to the district director with a copy to the importer or consignee.

(2) If the bond release letter is not received by the district director within 180 days after entry, the district director shall issue a "Notice of Redelivery," Customs form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the notice of redelivery, liquidated damages shall be assessed in the full amount of a bond given on Customs form 7551. If the transaction has been charged against a bond given on Customs form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been assessed against a bond given on Customs form 7551.

(f) *Waiver of declaration requirements.*—The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the district director for a United States-, Canadian-, or Mexican-registered vehicle arriving via land borders.

(g) *Vehicle or equipment item introduced by means of a fraudulent or false declaration.*—Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) *Vehicle or equipment item denied entry.*—If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the vehicle or equipment item for entry into the Customs territory of the United States and shall issue a notice of that refusal to the importer or consignee.

(i) *Disposition of vehicle or equipment item denied entry; redelivery.*—A vehicle or equipment item denied entry under paragraph (b) of this section, or redelivered to Customs custody under paragraph (e) of this section, which is not exported under Customs supervision within 90 days from the date of the notice of denial of entry or date of redelivery, shall be disposed of under applicable Customs laws and regulations, except that disposition shall not result in the introduction of the vehicle or equipment item into the Customs territory of the United States in violation of the act.

Safety Standards for Boats and Associated Equipment

§ 12.85 Coast Guard boat and associated equipment safety standards.

(a) *Applicability of standards or regulations prescribed by the Commandant, U.S. Coast Guard.* Boats and associated equipment (as hereinafter defined) are subject to U.S. Coast Guard safety regulations or standards when imported or, under certain conditions, brought into the United States after November 1, 1972. Those regulations or standards are prescribed by the Commandant, U.S. Coast Guard, pursuant to sections 5, 7, and 39, Federal Boat Safety Act of 1971 (46 U.S.C. 1454, 1456, 1488), as set forth in 33 CFR Parts 181, 183. **[TD 76-166.]**

(1) The term "boats" includes:

(i) All vessels manufactured or used primarily for noncommercial use.

(ii) All vessels leased, rented, or chartered to another for the latter's noncommercial use.

(iii) All vessels engaged in the carrying of six or fewer passengers (see section 4.80 of this chapter on prohibitions against foreign vessels transporting passengers in the coastwise trade).

(2) For purposes of § 12.85 the term "boat" does not include:

(i) Foreign vessels temporarily using waters subject to U.S. jurisdiction.

(ii) Military or public vessels of the United States, except recreational type public vessels.

(iii) A vessel whose owner is a State or subdivision thereof, which is principally used for governmental purposes, and which is clearly identifiable as such.

(iv) Ships' lifeboats.

(3) The term "associated equipment" means:

(i) Any system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component (excluding radio equipment).

(ii) Any accessory or equipment for, or appurtenance to, a boat (excluding radio equipment).

(iii) Any marine safety article, accessory, or equipment intended for use by a person on board a boat (excluding radio equipment).

(4) The term "product" as used in this section, includes the terms "boats" and "associated equipment" as defined in paragraphs (a) (1), (2), and (3) of this section.

(b) *Evidence of compliance with boating standards or regulations as condition of entry.* A product for which entry is sought into the Customs territory of the United States will, subject to the exceptions specified in paragraph (c) of this section, be denied entry unless accompanied by evidence of compliance with standards or regulations as follows:

(1) A product subject to standards prescribed in 33 CFR Part 183 will have affixed to it a compliance certification label in accordance with the requirements of Subpart B, 33 CFR Part 181.

(2) A boat hull subject to Subpart C, 33 CFR Part 181 will have affixed to it a hull identification number affixed by the importer or the original manufacturer. The number

shall comply with the format requirements of Subpart C, 33 CFR Part 181.

(c) *Products not in compliance with standards or regulations: Alternative evidence required as condition of entry and release.* Certain products shall be permitted entry and release without a compliance certification label or hull identification number affixed, as is required by Subparts B and C, 33 CFR Part 181, if they fall within one of the following categories, and if the conditions for entry and release specified for each category of product are met:

(1) *Products manufactured before standards or regulations in effect.* For certain products manufactured before an applicable standard or regulation was in effect, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the product was manufactured before the applicable standard or regulation was in effect. If the district director believes that it is necessary in a particular case, he may communicate with the nearest Coast Guard district commander by the most expedient means to request that the Coast Guard determine that alteration of the product is not required. A verbal declaration is acceptable at the option of the district director for products entering from Canada or Mexico otherwise than by sea.

(2) *Products exempted from standards or regulations by Coast Guard Grant of Exemption.* For certain products specifically exempted from applicable standards or regulations by a Coast Guard Grant of Exemption, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product has been specifically exempted from applicable standards or regulations by a U.S. Coast Guard Grant of Exemption, issued under the authority of section 9 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1458), and in effect on the date the product was manufactured. The declaration will also state that the product complies with all the terms and conditions of the exemption. A copy of the exemption, certified by the importer or consignee to be a true copy, shall be attached to each declaration.

(3) *Products to be brought into conformity.* In the case of products that are not in conformity at the time of entry but will be brought into conformity, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product does not conform with applicable safety standards or regulations, but that the importer or consignee will bring the product into conformity with safety standards or regulations, and will also state that the product will not be sold or offered for sale, or used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States except for the purpose of bringing it into conformity, until the bond has been satisfied with respect to this obligation. To secure entry under this provision, bond must be given in accordance with paragraph (e)(1) of this section.

(4) *Certain products entering the United States for repair or alteration.* In the case of a nonresident of the United States who wishes to enter a product for the purpose of making repairs or alterations to it for a period not exceeding 60 days from the date of entry, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is a nonresident of the United States, that the product is being brought in for the purpose of making repairs or alterations to it, that it will not remain in the Customs territory of the United States for more than 60 days following the date of the entry, and that it will not be offered for sale, sold, or used for pleasure in waters subject to the jurisdiction of the United States during that time. However, the declaration required by the subparagraph shall be waived for persons regularly entering the United States from Canada or Mexico otherwise than by sea who obtain, by application to the district director, an appropriate means of identification that has been affixed to the boat to serve in place of the declaration.

(5) *Products owned by certain foreign government or international organization personnel.* In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of boats has been authorized by the Department of State, and that he is importing the product for purposes other than resale.

(6) *Certain products entered for tests or experimentation.* In the case of an importer or consignee seeking to enter a product, for tests or experimentation for a period not to exceed 1 year, that will not be sold in the United States, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the importer or consignee is importing the product solely for the purpose of tests or experiments and it will not be sold or operated in the United States, except where such operation is an integral part of the tests and experiments for which the product was imported. The importer will attach to the declaration a description of the tests and experiments for which the product is being imported, the time period estimated to complete the tests, and the disposition to be made of the product after the tests and experiments are completed. Entry under this subparagraph may be authorized for a period not to exceed 1 year.

(d) *Declaration requirements.* All declarations submitted under paragraph (c) of this section, except verbal declarations submitted pursuant to paragraph (c)(1) of this section, must:

(1) Be filed with the entry, in duplicate.

(2) Be signed by the importer or consignee.

(3) State the name and U.S. address of the importer or consignee.

(4) State the entry number and date.

(5) Provide the make, model, and hull identification number, if affixed, of any boat, and a description of any equipment or component.

(6) Identify, if known the city or State in which the product will be principally located.

The district director shall immediately forward the original of a declaration to the Commandant (G-BBC/62), U.S. Coast Guard, Washington, D.C. 20590.

(e) *Release under bond*—(1) *When bond required.* A bond in the amount prescribed by § 113.14 of this chapter will be required of the importer or consignee on Customs Form 7551, 7553, or 7595 when a declaration is made that a product is to be brought into conformity. When the importer or consignee of a product declares that it will be brought into conformity before being sold or offered for sale, or before being used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States and seeks entry of the product under paragraph (c)(3) of this section, the entry shall be accepted only if bond is given for the production of a statement by either the importer or the consignee that the product described in the declaration is in conformity with applicable safety standards or regulations. The statement shall identify the person or firm who has brought the product into conformity with the standards or regulations and shall describe the nature and extent of the work performed.

(2) *Time limitation to produce statement for which bond is obligated.* Within 90 days after entry, or any additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to both the district director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the district director for the port of entry of the product within 90 days after the date of entry or within an additional period allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director those products which were released in accordance with this paragraph.

(3) *Damages to be assessed against bond.* In the event that any product is not redelivered within 5 days following the date required by subparagraph (2) of this paragraph, liquidated damages shall be assessed in the full amount of the bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would be demanded under the preceding sentence if the product had been released under a bond given on Customs Form 7551.

(f) *Products refused entry.* If a product is denied entry under the provisions of this section, the district director shall refuse to release the product for entry into the United States and shall issue a notice of the refusal to the importer or consignee.

(g) *Disposition of products refused entry into the United States; redelivered products.* Products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (e)(2) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of a product in violation of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451-1489). (Sec. 623, 46 Stat. 759, as amended, secs. 5, 6, 7, 11, 15, 85 Stat. 215, 216, 217, 219 (19 U.S.C. 1623, 46 U.S.C. 1454, 1455, 1456, 1460, 1464) R.S. 251, as amended, secs. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624).)

Electronic Products

§ 12.90 Definitions.

As used in sections 12.90 and 12.91—the term "the Act" shall mean the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b et seq.), as amended from time to time. **[TD 70-31.]**

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health, Education, and Welfare.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f). See 42 CFR, Part 78.

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f) when offered for importation into the Customs territory of the United States shall be refused entry unless there is filled with the entry, in duplicate, a declaration verified by the importer or consignee which identifies the product and affirms:

(1) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag are attached thereto; or

(2) That the certification required by section 360 of the Act is not affixed to the electronic product but that a timely and adequate petition for permission to bring the product into compliance with applicable standards has been or will be filed with the Secretary of Health, Education, and Welfare in accordance with 42 CFR 78.607. The duplicate copy of the declaration filed under this paragraph shall be forwarded by the district director of Customs directly to the Secretary of Health, Education, and Welfare or his designee.

(c) *Notice of sampling.* When a sample of a product offered for importation has been requested by the Secretary of Health, Education, and Welfare as provided for in 42 CFR 78.604, the district director of Customs having jurisdiction over the shipment from which the sample is procured shall give to its owner or consignee prompt notice of delivery of, or intention to deliver, such sample. If the notice so requires, the owner or consignee shall hold the shipment of which the sample is typical and not release such shipment until notice of the results of the tests of the sample from the Secretary of Health, Education, and Welfare stating the product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in subparagraph (2) of paragraph (b) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health, Education, and Welfare or his designee, in accordance with 42 CFR 78.604, that the electronic product described in the declaration filed by the importer or consignee is in compliance with the applicable standards. The bond shall be in the amount required under § 113.14 of this chapter. Within 90 days after such entry, or such additional period as the district director of Customs may allow for good cause shown, the importer or consignee shall take any action necessary to insure delivery to the district director of the notification described in this paragraph. If the notification described in this paragraph is not delivered to the district director of Customs for the port of entry of such electronic products within 90 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director of Customs those electronic products which were released in accordance with this paragraph. In the event that any such electronic products are not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551. **[TD 74-227.]**

(e) *Merchandise refused entry.* If electronic products are denied entry under any provision of this section, the district director of Customs shall refuse to release the merchandise for entry into the United States.

(f) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Electronic products which are denied entry under paragraph (b) of this section or which are redelivered in accordance with paragraph (d) of this section and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations; *Provided, however,* That any such disposition shall not result in an introduction into the United States of an electronic product in violation of the Act. (Sec. 358, 82 Stat. 1177, sec. 360, 82 Stat. 1181; 42 U.S.C. 263f, 263h)

Switchblade Knives[1]

§ 12.95 Definitions.

Terms as used in §§ 12.96 through 12.103 of this part are defined as follows: **[TD 71-243.]**

(a) *Switchblade knife.* "Switchblade knife" means any imported knife which has—

(1) A blade which opens automatically by hand pressure applied to a button or device in the handle of the knife, or any knife with a blade which opens automatically by operation of inertia, gravity, or both; or

(2) A stiletto or other blade style which is designed for purposes that include a primary use as a weapon when, by insignificant preliminary preparation, as described in paragraph (b) of this section such stiletto or other weapon can be altered or converted so as to open automatically by operation of inertia, gravity, or both under the principle of the decision in the case of Precise Imports Corp. and Others v. Joseph P. Kelly, Collector of Customs, and Others (378 F. 2d 1014).

(b) *Insignificant preliminary preparation.* "Insignificant preliminary preparation" means preparation with the use of ordinarily available tools, instruments, devices, and materials by one having no special manual training or skill for the purpose of modifying blade heels, relieving binding parts, altering spring restraints, or making similar minor alterations which can be accomplished in a relatively short period of time.

(c) *Utilitarian use.* "Utilitarian use" includes but is not necessarily limited to use—

(1) For a customary household purpose;

(2) For usual personal convenience, including grooming;

(3) In the practice of a profession, trade, or commercial or employment activity;

(4) In the performance of a craft or hobby;

(5) In the course of such outdoor pursuits as hunting and fishing; and

(6) In scouting activities.(R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.96 Imports unrestricted under the Act.

(a) *Common and special purpose knives.* Imported knives with a blade style designed for a primary utilitarian use, as defined in § 12.95(c), shall be admitted to unrestricted entry provided that in condition as entered the imported knife is not a switchblade knife as defined in § 12.95(a)(1). Among admissible common and special purpose knives are jackknives and similar standard pocketknives, special purpose knives, scout knives, and other knives equipped with one or more blades of such single edge nonweapon styles as clip, skinner, pruner, sheep foot, spey, coping, razor, pen, and cuticle. **[TD 71-243.]**

(b) *Weapons with fixed blades.* Importations of certain articles having a fixed unexposed or exposed blade are not within the prohibition of the Act of August 12, 1958 (15 U.S.C. 1241-1244). However, upon release by Customs, possession of these admissible articles which include such weapons as sword canes, camel whips, swords, sheath knives, machetes and similar devices that may be capable of use as weapons may be in violation of State or municipal laws. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.97 Importations contrary to law.

The importation of switchblade knives, except as permitted by section 4 of the Act of August 12, 1958 (15 U.S.C. 1244), are importations contrary to law and subject to forfeiture under 18 U.S.C. 545. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545) **[TD 71-243.]**

§ 12.98 Importations permitted by statutory exceptions.

The importation of switchblade knives is permitted by section 4 of the Act of August 12, 1958 (15 U.S.C. 1244), when— **[TD 71-243.]**

(a) Imported pursuant to contract with a branch of the Armed Forces of the United States;

(b) Imported by a branch of the Armed Forces of the United States or any member or employee thereof acting in the performance of his duty; or

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[1] T.D. 71-243, 36 FR 18859, Sept. 23, 1971.

(c) A switchblade knife having a blade not exceeding 3 inches in length is in the possession of and is being transported on the person of an individual who has only one arm. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.99 Procedures for permitted entry.

(a) *Declaration required.* The entry of switchblade knives, the importation of which is permitted under § 12.98 shall be accompanied by a declaration, in duplicate, of the importer or consignee stating the facts of the import transaction as follows: **[TD 71-243.]**

(1) *Importation pursuant to Armed Forces contract.* (i) The names of the contracting Armed Forces branch and its supplier;

(ii) The specific contract relied upon identified by its date, number, or other contract designation; and

(iii) A description of the kind or type of knife imported, the quantity entered, and the aggregate entered value of the importation.

(2) *Importation by a branch, member, or employee of the Armed Forces.* (i) The name of the Armed Forces branch by or for the account of which entry is made or the branch of the importing member or employee acting in performance of duty; and

(ii) The description, quantity, and aggregate entered value of the importation.

(3) *Importation by a one-armed person.* A statement that the knife has a blade not exceeding 3 inches in length and is possessed by and transported on the declarant's person solely for his necessary personal convenience, accommodation, and use as a one-armed individual.

(b) *Attachments to declaration.* Details for purposes of a declaration required under paragraph (a) of this section may be furnished by reference in the declaration to attachment of the original or copy of the contract or other documentation which contains the information.

(c) *Execution of declaration.* Declarations required by paragraph (a) of this section shall be executed as follows:

(1) *Contract supplier; Armed Forces branch; member or employee.* Declarations made under paragraph (a) or (b) of § 12.98 shall affirm that facts and data furnished are declared on knowledge, information, or belief of a signing officer, partner, or authorized representative of an importing contract supplier or of a commissioned officer, contracting officer, or employee authorized to represent an Armed Forces importing branch. The signature to a declaration shall appear over the declarant's printed or typewritten name, his title or rank, and the identity of the contract supplier or Armed Forces branch he represents or in which he has membership or employment.

(2) *One-armed person.* Declarations made under paragraph (c) of § 12.98, signed by the eligible person, shall be presented upon his arrival directly to an inspector or other Customs officer who shall visually confirm the facts declared. An eligible knife shall be released only to the declarant.

(d) *Verification of declared information.* The importer, consignee, or declarant of knives permitted entry under § 12.98 upon request shall furnish Customs additional documentary evidence from an Armed Forces branch or other relevant source as Customs officers may require in order to—

(1) Verify declared statements;

(2) Resolve differences pertaining to quantity, description, value, or other discrepancy disclosed by the importation, entry, or related documentation;

(3) Establish the declarant's authority to act; or

(4) Authenticate a signature. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.100 Importations in good faith; common or contract carriage.

(a) *Exportation in lieu of seizure.* Upon a claim that the importer acted in good faith without knowledge of applicable laws and regulations, Customs officers may authorize detained inadmissible knives to be exported otherwise than in the mails, at no expense to the Government, under the procedures of §§ 18.25-18.27 of this chapter. **[TD 71-243.]**

(b) *Common or contract carriers.* In accordance with section 4 of the Act of August 12, 1958 (15 U.S.C. 1244(1)), excepted from the penalties of the Act are the shipping, transporting, or delivering for shipment in interstate commerce, in the ordinary course of business of common or contract carriage, of any switchblade knife. However, imported switchblade knives as defined in § 12.95(a) so shipped or transported to a port of entry or place of Customs examination are prohibited importations subject to §§ 12.95-12.103 and disposition as therein required, authorized, or permitted. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.101 Seizure of prohibited switchblade knives.

Importations contrary to law. Inadmissible importations which are not exported in accordance with § 12.100(a) shall be seized under section 545, title 18, United States Code. **[TD 71-243.]**

(b) *Notice of seizure.* Notice of Customs seizure shall be sent or given to the importer or consignee, which shall inform him of his right to file a petition under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized switchblade knives. (See Part 171 of this chapter.) (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545)

§ 12.102 Forfeiture.

If the importer or consignee fails to submit, within 60 days after being notified of his right to do so, a petition under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized importation, the seized prohibited knives shall be forfeited in accordance with applicable provisions of sections 602-611, Tariff Act of 1930, as amended (19 U.S.C. 1602-1611), and the procedures of Part 162 of this chapter. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624; 18 U.S.C. 545) **[TD 71-243, 78-99]**

§ 12.103 Report to the U.S. Attorney.

Should circumstances and facts of the import transaction show evidence of deliberate violation of the Act of August 12, 1958 (15 U.S.C. 1241-1244), so as to present a question of criminal liability, the evidence, accompanied by reports of investigative disclosures, findings, and recommendation, shall be transmitted to the U.S. Attorney for consideration of criminal prosecution. The district director of Customs shall hold the seized switchblade knives intact pending disposition of the case. (R.S. 251, sec. 593, 46 Stat. 751, sec. 624, 18 U.S.C. 545) **[TDs 71-243, 72-81.]**

Pre-Columbian Monumental and Architectural Sculpture and Murals [1]

§ 12.105 Definitions.

For purposes of § § 12.106 through 12.109:

(a) The term "pre-Columbian monumental or architectural sculpture or mural" means any stone carving or wall art listed in paragraph (b) of this section which is the product of a pre-Columbian Indian culture of Bolivia, British Honduras, Columbia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela. **[TDs 73-119, 73-151, 73-165, 77-206.]**

(b) The term "stone carving or wall art" includes:

(1) Such stone monuments as altars and altar bases, archways, ball court markers, basins, calendars, and calendrical markers, columns, monoliths, obelisks, statues, stelae, sarcophagi, thrones, zoomorphs;

(2) Such architectural structures as aqueducts, ball courts, buildings, bridges, causeways, courts, doorways (including lintels and jambs), forts, observatories, plazas, platforms, facades, reservoirs, retaining walls, roadways, shrines, temples, tombs, walls, walkways, wells;

(3) Architectural masks, decorated capstones, decorative beams of wood, frescoes, friezes, glyphs, graffiti, mosaics, moldings, or any other carving or decoration which had been part of or affixed to any monument or architectural structure, including cave paintings or designs;

(4) Any fragment or part of any stone carving or wall art listed in the preceding subparagraphs.

(c) The term "country of origin," as applied to any pre-Columbian monumental or architectural sculpture or mural, means the country where the sculpture or mural was first discovered.

§ 12.106 Importation Prohibited.

Except as provided in section 12.107, no pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from its country of origin after June 1, 1973, may be imported into the United States. **[TD 78-273]**

§ 12.107 Importations permitted.

Pre-Columbian monumental or architectural sculpture or mural for which entry is sought into the Customs territory of the United States will be permitted entry if at the time of making entry:

(a) A certificate, issued by the Government of the country of origin of such sculpture or mural, in a form acceptable to the Secretary, certifying that such exportation was not in violation of the laws of that country, is filed with the district director of Customs; or

(b) Satisfactory evidence is presented to the district director of Customs that such sculpture or mural was exported from the country of origin on or before (the effective date of this regulation); or

(c) Satisfactory evidence is presented to the district director of Customs that such sculpture or mural is not an article listed in § 12.105.

§ 12.108 Detention of articles; time in which to comply.

If the importer cannot produce the certificate or evidence required in § 12.107 at the time of making entry, the district director shall take the sculpture or mural into Customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate or evidence is presented to such officer. The certificate or evidence must be presented within 90 days after the date on which the sculpture or mural is taken into Customs custody, or such longer period as may be allowed by the district director for good cause shown.

§ 12.109 Seizure and forfeiture.

(a) Whenever any pre-Columbian monumental or architectural sculpture or mural listed in § 12.105 is detained in accordance with § 12.108 and the importer states in writing that he will not attempt to secure the certificate or evidence required, or such certificate or evidence is not presented to the district director prior to the expiration of the time provided in § 12.108, the sculpture or mural shall be seized and summarily forfeited to the United States in accordance with Part 162 of this chapter.

(b) Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall in accordance with the provisions of Title II of Public Law 92-587:

(1) First be offered for return to the country of origin, and shall be returned if that country presents a request in writing for the return of the article and agrees to bear all expenses incurred incident to such return; or

(2) If not returned to the country of origin, be disposed of in accordance with law, pursuant to the provisions of section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609), and § 162.46 of this chapter.

Pesticides and Devices

§ 12.110 Definitions.

Except as otherwise provided below, the terms used in § § 12.111 through 12.117 shall have the meanings set forth for those terms in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*), hereinafter referred to as "the Act." The term "Administrator" shall mean the Administrator of the Environmental Protection Agency. **[TD 75-194.]**

§ 12.111 Registration.

All imported pesticides are required to be registered under the provisions of section 3 of the Act, and under the regulations (40 CFR 162.10) promulgated thereunder by the Administrator before being permitted entry into the United States. Devices, although not required to be registered, must not bear any statement, design, or graphic representation that is false or misleading in any particular. **[TD 75-194.]**

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[1] 38 FR 10807, May 2, 1973.

§ 12.112 Notice of arrival of pesticides and devices.

(a) *General.* An importer desiring to import pesticides or devices into the United States shall submit to the Administrator a Notice of Arrival of Pesticides and Devices (Environmental Protection Agency Form 3540-1), hereinafter referred to as a Notice of Arrival, prior to the arrival of the shipment in the United States. The Administrator shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in the United States, and shall return the completed Notice of Arrival to the importer or his agent. **[TD 75-194.]**

(b) *Chemicals imported for use other than as pesticides.* Chemicals which can be used as pesticides but which are not imported for such use and are not shown on the Abbreviated List of Pesticides compiled by the Environmental Protection Agency, may be entered without the submission of the Notice of Arrival.

§ 12.113 Arrival of shipment.

(a) *Notice of arrival presented.* Upon the arrival of a shipment of pesticides or devices, the importer or his agent shall present to the district director of Customs at the port of entry the Notice of Arrival completed by the Administrator and indicating the Customs action to be taken with respect to the shipment. The district director shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies. **[TD 75-194.]**

(b) *Notice of arrival not presented.* When a shipment of pesticides or devices arrives in the United States without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the shipment shall be detained by the district director at the importer's risk and expense until the completed Notice of Arrival is presented or until other disposition is ordered by the Administrator, but not to exceed a period of 30 days, or such extended period, not in excess of 30 additional days, as the district director for good cause may specially authorize. An application of the importer or his agent requesting an extension of the initial 30-day period shall be filed with the district director at the port of entry.

(c) *Disposition of pesticides or devices remaining under detention.* A shipment that remains detained or undisposed of due to failure of presentment of a completed Notice of Arrival or nonreceipt of an order of the Administrator as to its disposition shall be treated as a prohibited importation. The district director shall cause the destruction of any such shipment not exported by the consignee within 90 days after the expiration of the detention period specified or authorized pursuant to § 12.113(b).

§ 12.114 Release or refusal of delivery.

If the completed Notice of Arrival directs the district director of Customs to release the shipment of pesticides or devices, the shipment shall be released to the consignee. If the completed Notice of Arrival directs the district director to refuse delivery of the shipment, the shipment shall be refused delivery and treated as a prohibited importation. The district director shall cause the destruction of any shipment refused delivery and not exported by the consignee within 90 days after notice of such refusal of delivery. **[TD 75-194.]**

§ 12.115 Release under bond.

If the completed Notice of Arrival so directs, a shipment of pesticides or devices shall be detained at the importer's expense by the district director of Customs pending an examination by the Administrator to determine whether the shipment complies with the requirements of the Act. However, a shipment detained for examination may be released to the consignee prior to a determination by the Administrator provided a bond is furnished on Customs Form 7551, 7553, or 7595 for the return of the merchandise to Customs custody. The bond shall be in the amount required under § 113.14 of this chapter. When a shipment of pesticides or devices is released to the consignee under bond, the shipment shall not be used or otherwise disposed of until the determination is made by the Administrator. **[TD 75-194.]**

§ 12.116 Samples.

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the district director of Customs shall deliver to the Administrator samples of the imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise. The district director shall notify the consignee, in writing, that the samples of imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise have been delivered to the Administrator. **[TD 75-194.]**

§ 12.117 Procedure after examination.

(a) *Merchandise complying with the Act.* If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in compliance with the Act, the Administrator shall notify the district director of Customs that the shipment may be released to the consignee. **[TD 75-194.]**

(b) *Merchandise not complying with the Act.* If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in violation of the Act, the consignee shall be notified promptly by the Administrator of the nature of the violation and be given a reasonable time, not to exceed 20 days, to submit written material or, at his option, to appear before the Administrator and introduce testimony, to show cause why the shipment should not be destroyed or refused entry. If, after consideration of all the evidence presented, it is still the opinion of the Administrator that the merchandise is in violation of the Act, the Administrator shall notify the district director of this opinion and the district director shall either (1) refuse delivery to the consignee, or (2) if the shipment has been released to the consignee under bond, demand redelivery of the shipment under the terms of the bond. If the merchandise is not redelivered within 30 days after the date of demand by the district director, the district director shall assess liquidated damages in the full amount of the bond. The district director shall cause the destruction of any merchandise refused delivery to the consignee, or redelivered by the consignee pursuant to a demand therefor, and not exported by the consignee within 90 days after notice of such refusal of delivery or within 90 days after such redelivery, as applicable.

PARTS 13, 14, 15, 16, & 17 ABOLISHED BY TD NUMBERS AS FOLLOWS:

1. Parts 13, 14, & 16 deleted by TD 73-175.
2. Part 15 deleted by TD 72-258.
3. Part 17 deleted by TD 770-181.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

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Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14755, Dec. 31, 1963, unless otherwise noted.

General Provisions

§ 18.1 Carriers; application to bond.

(a)(1) Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b) of this section, shall be delivered to a common carrier, contract carrier, freight forwarder, or private carrier bonded for that purpose, but such merchandise delivered to a common carrier, contract carrier, or freight forwarder may be transported with the use of facilities of other bonded or nonbonded carriers.[1] For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route. Only vessels entitled to engage in the coastwise trade (see § 4.80 of this chapter) shall be entitled to transport merchandise under this section. **[CCL 32/56; TDs 40578, 40631, 41760, 42783, 45303, 45690(6), 47505(1)(2), 48418, 48505, 49258, 51590, 52123, 53385, 53399, 55466, 55734, 55801, 56107, 69-14, 69-19, 70-121, 71-70, 73-140.]**

(2) Merchandise to be transported from one port to another in the United States under cover of a TIR carnet (see Part 114 of this chapter), except merchandise not otherwise subject to Customs control, as provided in §§ 18.41 through 18.45, shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The TIR carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(c)(3) of this chapter. **[TDs 71-70, 71-263.]**

(3) Merchandise to be transported from one port to another in the United States under cover of an A.T.A. carnet (see Part 114 of this chapter) shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The A.T.A. carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(d) of this chapter. **[TD 82-116.]**

(b) Pursuant to Public Resolution 108, of June 19, 1936,[2] and subject to compliance with all other applicable provisions of this part, the district director at New York, upon the request of the party in interest, may permit merchandise entered and examined for Customs purposes to be transported in bond between the ports named in the resolution by bonded cartmen or lightermen duly qualified in accordance with the provisions of Part 112 of this chapter, if the district director is satisfied that the transportation of such merchandise in this manner will not endanger the revenue. **[TD 78–99.]**

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[1] Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe— **[TD 69-19.]**

(1) Any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States.

(2) Any contract carrier authorized to operate as such by any agency of the United States, and

(3) Any freight forwarder authorized to operate as such by any agency of the United States, upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. A private carrier, upon application, may, in the discretion of the Secretary, be designated under the preceding sentence as a carrier of bonded merchandise, subject to such regulations and, in the case of each applicant, to such special terms and conditions as the Secretary may prescribe to safeguard the revenues of the United States with respect to the transportation of bonded merchandise by such applicant. (19 U.S.C. 1551.)

[2] "The Secretary of the Treasury be, and he is hereby, authorized, when it appears to him to be in the interest of commerce and notwithstanding any provision of law or regulation requiring that the transportation of imported merchandise be by a bonded common carrier, to permit such merchandise which has been entered and examined for customs purposes to be transported by bonded cartmen or bonded lightermen between the ports of New York, Newark, and Perth Amboy, which are all included in Customs Collection District Numbered 10 (New York): *Provided*, That this resolution shall not be construed to deprive any of the ports affected of its rights and privileges as a port of entry." (19 U.S.C. 1551a) (Sec. 551, 46 Stat. 742, as amended, 49 Stat. 1538, 80 Stat. 379, R.S. 251 as amended, secs. 551, 624; 19 U.S.C. 1551, 1551a)

§ 18.2 Receipt by carrier; manifest.

(a) When merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under the supervision of a Customs officer unless the transporting conveyance is not to be sealed with Customs seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon. The carrier's receipt shall be given immediately to the lading inspector on the Customs in-bond document (the appropriate Customs Forms 7512 or 7520, or the TIR or A.T.A. carnet) covering the merchandise. In the case of a carnet, the receipt shall be given on the appropriate vouchers in the following form: **[TDs 37341, 41283, 41284, 41332, 48505, 53893, 53989, 71–70, 82–116.]**

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation. ——————— Name of Carrier (or Exporter) ———
——— Attorney or Agent of Carrier (or Exporter) ————
— (Date)

(b) A Customs in-bond document containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier whenever merchandise is being transported in bond. All copies of the in-bond document shall be signed by the importing carrier or his agent and the in-bond carrier or his agent to indicate the quantity delivered for transportation in bond. When there is no discrepancy between the quantity manifested by the importing carrier and the quantity delivered to the in-bond carrier, the district director of Customs may authorize waiving the signature of the parties in interest as to delivered quantities. Except as prescribed in Subpart D of Part 123 of this chapter, relating to merchandise in transit through the United States between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance. **[TDs 45804, 70–121, 71–22, 71–70.]**

(c) After the merchandise has been laden and the in-bond carrier or his agent has receipted the in-bond document, either Customs Form 7512 or Customs Form 7520, in duplicate, or the carnet, together with the related Customs Form 7512–C (duplicate), shall be delivered as a manifest to the conductor, master, or person in charge to accompany the merchandise to destination. If more than one conveyance is used to transport merchandise, the Customs Form 7512–C (duplicate) shall accompany the first conveyance, and two copies of Customs Form 7512 shall accompany each conveyance as a manifest of the merchandise transported by that conveyance. A TIR carnet (see § 18.3(b)) shall not be used if more than one conveyance is required. **[TDs 37341, 53336, 53531, 53792, 54429, 71–70, 82–116.]**

(d) Upon arrival of the merchandise at the port of destination, the delivering carrier shall promptly surrender the in-bond manifest and related Customs Form 7512–C (duplicate) to the district director as a notice of arrival of the merchandise. If the in-bond manifest is lost in transit, the in-bond carrier will be responsible for obtaining copies of the original. **[TDs 69–19, 71–70.]**

§ 18.3 Transshipment;[3] transfer by bonded cartmen.

(a) When bonded merchandise in one conveyance is to be transshipped under Customs supervision to another single conveyance while en route to the port of destination or exportation, the in-bond document which accompanied the merchandise shall be presented to the district director of Customs at the place of transshipment for execution of a certificate of transfer thereon. The in-bond document shall be returned to the carrier to accompany the merchandise to the port of destination or exportation. Except as provided in paragraph (c) of this section, merchandise covered by a TIR carnet shall not be transshipped if the transshipment involves the unlading of the merchandise from a container or road vehicle. **[TDs 41283, 47505(1), 48505, 51035, 51215, 54880, 71–70.]**

(b) When bonded merchandise, other than merchandise covered by a TIR carnet, is to be transshipped into more than one conveyance, the carrier, agent of the shipper, or forwarder shall prepare, for each such conveyance, two additional copies of the Customs Form 7512 which accompanied the merchandise to the place of transshipment. The Form 7512 and Customs Form 7512–C (duplicate) which accompanied the shipment to the place of transshipment shall be presented to the district director there. The Customs officer supervising the transshipment shall execute a certificate of transfer on all copies of the Form 7512. The original copies of the Form 7512 and related Form 7512–C (duplicate) shall be delivered to the conductor, master, or person in charge of the first conveyance. Two additional copies of the Form 7512 shall be similarly delivered to the person in charge of each additional conveyance in which the merchandise is forwarded for delivery to the district director at the port of destination or exportation. **[TDs 46188, 54880, 71–70.]**

(c) Merchandise covered by a TIR carnet may be transshipped in a case involving the unlading of the merchandise from a container or road vehicle only if the transshipment is necessitated by casualty en route. In the event of transshipment, a TIR approved container or road vehicle shall be used if available. If the transshipment takes place under Customs supervision, the Customs officer shall excute a certificate of transfer on the appropriate TIR carnet voucher. **[TDs 32086, 43576, 47639(6), 71–70.]**

(d) If it becomes necessary at any point in transit to remove the Customs seals from a conveyance or container containing bonded merchandise for the purpose of transferring its contents to another conveyance or container, or to gain access to the shipment because of casualty or for other good reason, and it cannot be done under Customs supervision because of the element of time involved or because there is no Customs officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, seal the conveyance or container in which the shipment goes forward, and make appropriate notation of his action on the conductor's or master's copy of the manifest, or the outside back cover of the TIR carnet, including the date, serial numbers of the new seals applied, and the reason therefor. This authorization shall not apply in any case not involving a real emergency. **[TDs 47505(2), 51035, 71-70.]**

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[3] For provisions for transshipment or unlading due to accident or other casualty, see § 4.31 of this chapter.

(e) All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in bond shall be made under the provisions of Part 21 of this chapter and at the expense of the parties in interest, unless the Carrier's Bond or a TIR carnet is liable for the safekeeping and delivery of the merchandise while it is being transferred. (Secs. 551, 565, 46 Stat. 742, as amended, 747; 19 U.S.C. 1551, 1565) **[TD 71-70.]**

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

(a)(1) Except as provided in section 123.33 of this chapter, conveyances or compartments in which carload lots of bonded merchandise are transported shall be sealed under Customs supervision with high security red in-bond Customs seals, or if incapable of being so sealed, with red in-bond Customs seals. When the compartment or conveyance cannot be effectively sealed, as in the case of merchandise shipped in open cars or barges, or on the decks of vessels, or when it is known that any seals would necessarily be removed outside the jurisdiction of the United States for the purpose of discharging or taking on cargo, or when it is known that the breaking of the seals will be necessary to ventilate the hatches, or in other similar circumstances, such sealings may be waived with the consent of the carrier and an appropriate notation of such waiver shall be made on the manifest. The Commissioner of Customs may authorize the waiver of sealing of conveyances or compartments in which bonded merchandise is transported in other cases when in his opinion the sealing thereof is unnecessary to protect the revenue or to prevent violations of the Customs laws and regulations. **[TDs 40852, 47071(10), 48505, 52039, 53057, 70-121, 71-70, 77-30, 77-160.]**

(2) The district director of Customs shall cause a Customs seal to be affixed to a container or road vehicle which is being used to transport merchandise under cover of a TIR carnet unless the container or road vehicle bears a valid customs seal (domestic or foreign). The district director shall likewise cause a Customs seal or label to be affixed to heavy or bulky goods being so transported. If, however, he has reason to believe that there is a discrepancy between the merchandise listed on the Goods Manifest of the carnet and the merchandise which is to be transported, he shall cause a Customs seal or label to be affixed only when the listing of the merchandise in the carnet and a physical inventory agree. **[TD 71-70.]**

(b) Ports at which the facilities are insufficient to maintain continuous customs supervision over vessels arriving with bonded cargo while the bonded merchandise is not under Customs seals shall permit the vessels to proceed to destination without further sealing and notation to this effect shall be made on the manifest. **[C.I.E. 1440/58; TD 47071(10).]**

(c)(1) Merchandise not under bond may be transported in sealed conveyances or compartments containing bonded goods when destined for the same place or places beyond, but not when intended for intermediate places. **[TD 71-70.]**

(2) Merchandise moving under cover of a carnet may not be consolidated with other merchandise. **[TD 71-70, 82-116.]**

(d) The seals to be used in sealing conveyances, compartments, or packages are prescribed by the Department and may be obtained in accordance with § 24.13 of this chapter. **[TD 48235.]**

(e) Except as otherwise provided for in this paragraph, packages shipped in bond or by a carrier permitted to transport articles under the last sentence of section 553 of the tariff act, as amended, shall be corded and sealed or, in lieu thereof, the carrier shall furnish and attach to each such package a warning label on bright red paper, not less than 5 by 8 inches in size, containing the following legend in black or white lettering of a conspicuous size: **[TDs 51652, 56355, 68-74, 76-43.]**

U.S. Customs

This package is under bond and must be delivered intact to the Customs officer in charge at the port of destination or to such other place as authorized by Customs.

Warning. Two years' imprisonment, $5,000 fine, or both, is the penalty for unlawful removal of this package or any of its contents.

Transportation Entry No. ———; From ————To
————; This package to be delivered to Customs at
———————— (If other than port of destination)

A carrier at its option may omit the last three lines of the above legend from the warning label but if not omitted the information called for must be filled in. If the size of the package renders the use of a 5 × 8 inch warning label impracticable because of lack of space, a 3 × 5 inch label may be used. A high visibility, pressure-sensitive warning label, whether as a continuous series in tape form or otherwise, but not less than 1 1/2 by 3 inches in size, may be used on any size package. Such cording and sealing or labeling of the packages so shipped is not required either when the packages are transported in a conveyance or compartment sealed with Customs seals, or when the sealing of the conveyance or compartment in which the packages are transported is waived under paragraph (a) or (b) of this section. When the packages are shipped in a railroad car the sealing of which is practicable but which is not sealed because merchandise not being transported in bond is or may be carried in the same car, the packages being transported in bond shall be corded and sealed or labeled.

(f) The warning label, when used, shall be pasted securely on the package under Customs supervision as close as practicable to the mark or number on the pack-

and on which shall be printed in large, clear, black letters the following: **[TDs 7601, 25775, 18 USC 409; 19 USC 1598.]**

United States Customs. Two years' imprisonment, or $5,000 fine, or both, is the penalty for the unlawful removal of United States Customs seals on this car, vehicle, or compartment. United States Customs officers only are authorized to break

Car or vessel ____________________
Number or name ____________________
From ____________________
To ____________________

Notice: The merchandise in this car, vehicle, or compartment shall be delivered to the chief officer of the customs at —————. (Sec. 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1552, 1553) **[TD 56355.]**

§ 18.4a Containers or road vehicles accepted for transport under customs seal; requirements.

(a)(1) Containers covered by the Customs Convention on Containers[3a] shall be accepted for transport under Customs seal (see § 18.4) if (i) durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, and (ii) constructed and equipped as outlined in Annex 1 to the Customs Convention on Containers, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 2 to that Convention or by a metal plate showing design type approval by a competent authority. **[TD 71-70.]**

(2) Containers[3b] carrying merchandise covered by a TIR carnet shall be accepted for transport under Customs seal (see § 18.4) if (i) durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, (ii) constructed and equipped as outlined in Annex 6 to the TIR Convention, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 8 to that Convention, or by a metal plate showing design type approval by a competent authority, and (iii) if the container or road vehicle hauling the container has affixed to it a rectangular plate bearing the letters "TIR" in accordance with Article 31 of the TIR Convention.

(b) Road vehicles[3c] carrying merchandise covered by a TIR carnet shall be accepted for transport under Customs seal if (1) durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, (2) constructed and equipped as outlined in Annex 3 to the TIR Convention, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 5 to that Convention, or by a metal plate showing design type approval by a competent authority, and (3) if the road vehicle has affixed to it a rectangular plate bearing the letters "TIR" in accordance with Article 31 of the TIR Convention.

(c) The district director of Customs may refuse to accept for transport under Customs seal a container or road vehicle bearing evidence of approval if, in his opinion, the container or road vehicle no longer meets the requirements of the applicable Convention.

(d) Containers or road vehicles which are not approved under the provisions of a Customs Convention may be accepted for transport under Customs seal only if the district director at the port of origin is satisfied that (1) the container or road vehicle can be effectively sealed and (2) no goods can be removed from or introduced into the container or road vehicle without obvious damage to it or accepted shall not carry merchandise covered by a TIR carnet. (77A Stat. 14, sec. 14, 67 Stat. 516, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1202 (Gen. Hdnote. 11), 1322, 1623, 1624)

[3a] See footnote 38a to Part 10 of this chapter.

[3b] "* * * the term 'container' shall mean an article of transport equipment (lift-van, movable tank or other similar structure);

"(i) Of a permanent character and accordingly strong enough to be suitable for repeated use;

"(ii) Specially designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;

"(iii) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;

"(iv) So designed as to be easy to fill and empty; and

"(v) Having an internal volume of one cubic metre or more; the term 'container' includes neither vehicles nor conventional packing; * * *" (Article 1, TIR Convention.)

[3c] "* * * the term 'road vehicle' shall mean not only any road motor vehicle but also any trailer or semitrailer designed to be drawn by such a vehicle; * * *" (Article 1, TIR Convention.)

§ 18.5 Diversion.

(a) Merchandise forwarded under any class of transportation entry may be diverted to any port other than the port named in the entry at the option of the consignee or agent. Except as provided for in paragraphs (c), (d), and (e), of this section, prior application or approval of such diversion is not required. **[TDs 17688, 37340, 37460, 38287 (Q. 34), 48505, 53792, 71-70.]**

(b) The district director of Customs at the port to which merchandise is diverted may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any provisions of the tariff laws. **[TDs 40351, 46032, 50982, 71-70.]**

(c) When merchandise which has been delivered to the district director at the port of original destination or port of diversion under any class of transportation entry is to be forwarded to another port or returned to the port of origin, a new transportation entry shall be required. If the merchandise is moving under cover of a carnet, the carnet may be accepted as a transportation entry. **[TDs 39514, 53792, 71-70, 82-116.]**

(d) If it is desired to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forward the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the district director at the port where diversion takes place shall complete the original transaction and shall require the filing of a new transportation entry or entries for the portion or portions forwarded. In the case, however, of merchandise being transported under cover of a carnet, splitting up of a shipment shall not be permitted. **[TDs 53792, 71-70, 82-116.]**

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations of the Agricultural Research Service of the Department of Agriculture shall be allowed only upon written permission or under regulations issued by the agency concerned. (Secs. 551-553, 46 Stat. 742, as amended; 19 U.S.C. 1551-1553) **[TDs 49600, 71-70.]**

§ 18.6 Short shipments; shortages; entry and allowance.

(a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded only under a new transportation entry referenced to the original entry. **[TDs 32280, 48505, 71-70.]**

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry by the carrier discloses that the merchandise has been delivered directly to the consignee, entry therefore may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier. **[TDs 71-22, 71-70.]**

(c) If the merchandise cannot be recovered intact, as above specified, entry shall not be accepted and, except as provided in paragraph (d) of this section, there shall be sent to the initial bonded carrier a demand for liquidated damages on Customs Form 5955-A, in the case of nondelivery of an entire shipment or on Customs Form 5931, in the case of a partial shortage. **[TDs 37498, 71-22, 71-70.]**

(d) If merchandise covered by a carnet cannot be recovered intact, as specified in paragraph (b) of this section, entry shall not be accepted; there shall be sent to the appropriate guaranteeing association a demand for pecuniary penalties, liquidated damages, duties, and taxes as prescribed in § 18.8(e); and, if appropriate, there shall also be sent to the initial bonded carrier a demand for any excess, as provided in § 114.22(c)(3) of this chapter. Demands shall be made on the forms specified in paragraph (c) of this section. **[19 USC 1558. TDs 22465, 47569, 71-70, 82-116.]**

(e) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, shall be made in the liquidation of the entry. **[TDs 51275, 70-121, 71-70.]**

(f) In the case of shipments arriving in the United States by rail or seatrain which are forwarded under Customs in-bond seals under the provisions of Subpart D of Part 123 of this chapter, and § 18.11, or § 18.20, a notation shall be made by the carrier or shipper on the in-bond manifest, Customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named. (Secs. 551, 552, 553, 46 Stat. 742, as amended; 19 U.S.C. 1551, 1552, 1553) **[TD 71-70.]**

§ 18.7 Lading for exportation, verification of.

(a) When merchandise covered by an in-bond entry is delivered to the exporting carrier at the port of exportation, the in-bond document and the related Customs Form 7512-C (duplicate) shall be promptly delivered to the district director of Customs. **[TDs 53893, 71-70.]**

(b) The district director shall require only such supervision of the lading for exportation of merchandise covered by an entry or withdrawal for exportation or for transportation and exportation as is reasonably necessary to satisfy him that the merchandise has been laden on the exporting conveyance.

(c) Whenever the circumstances warrant, and occasionally in any event, district directors shall request the Office of Investigations to check export entries and withdrawals against the records of the exporting carriers. Such check or verification shall include an examination of the carrier's records of claims and settlement of export freight charges and any other records which may relate to the transaction. The exporting carrier shall maintain these records for 5 years from the date of exportation of the merchandise. (Secs. 553, 557, 46 Stat. 742, as amended, 744 as amended, sec. 646, 67 Stat. 520; 19 U.S.C. 1553, 1557, 1646a) **[TD 79-159.]**

§ 18.8 Liability for shortage, irregular delivery, or nondelivery; penalties.

(a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at destination or port of exit of bonded merchandise, received by it for carriage. When sealing is waived, any loss found to exist at destination shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced. [[CCL 26/56. TDs 48505, 49209 (4), 71-70.]

(b) Penalties imposed as liquidated damages under the carrier's bond for shortage, failure to deliver, or irregular delivery shall be as follows:

(1) In the case of shortage, failure to deliver, or delivery direct to the consignee or other person of any merchandise free of duty, an amount equal to the value of the missing merchandise, not to exceed in any one shipment the sum of $25. [CCL 48/57. TD 55801.]

(2) In the case of shortages or failure to deliver merchandise subject to duty, an amount equal to the duties on the missing merchandise or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest. [TD 52006.]

(3) In the case of unauthorized delivery directly to the consignee or other person of merchandise subject to duty, an amount equal to one and one-quarter times the estimated duty thereon, or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest. [TDs 38266, 52006, 53893.]

(c) In addition to the penalties described in paragraph (b) of this section, the carrier shall pay any internal-revenue taxes or other taxes accruing to the United States on the missing merchandise, together with all costs, charges, and expenses caused by the failure to make the required transportation, report, and delivery. [TD 53399.]

(d) In any case in which liquidated damages imposed in accordance with this section do not aggregate over $50,000 and the district director is satisfied by evidence submitted to him with an application for relief from the payment thereof filed as provided in Part 172 of this chapter that any shortage, irregular delivery, nondelivery, or any failure to obtain Customs supervision was without any intent to evade any law or regulation, the district director may cancel such claim upon the payment of any lesser amount or without the payment of any amount, as he may deem appropriate under the law and in view of the circumstances. [TDs 53919, 54346, 70-249, 71-70, 73-308.]

(e)(1) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States, and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by a TIR carnet. Penalties imposed as liquidated damages for any shortage, irregular delivery, or nondelivery shall be computed in accordance with subparagraphs (1), (2), and (3) of paragraph (b) of this section. If a TIR carnet has not been discharged, or has been discharged subject to a reservation, the guaranteeing association shall be notified within 1 year of the date upon which the carnet is taken on charge, except that if the discharge shall have been obtained improperly or fraudulently the period shall be 2 years. No claim for payment under a TIR carnet shall be made against a guaranteeing association more than 3 years after the date when the association was informed that the carnet had not been discharged, or had been discharged subject to a reservation, or that the certificate of discharge had been obtained improperly or fraudulently. However, in cases which become the subject of legal proceedings during the above-mentioned 3-year period, no claim for payment shall be made more than 1 year after the date when the decision of the court becomes enforceable. [TD 71-70.]

(2) Within 3 months from the date demand for payment is made by the district director as provided by § 18.6(d), the guaranteeing association shall pay the amount claimed, except that if the amount claimed exceeds the liability of the guaranteeing association under the carnet (see § 114.22(d) of this chapter), the carrier shall pay the excess. The amount paid shall be refunded if, within a period of 1 year from the date on which the claim for payment was made, it is established to the satisfaction of the Commissioner of Customs that no irregularity occurred. The district director may cancel liquidated damages assessed against the guaranteeing association to the extent authorized by paragraph (d) of this section.

(3) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by an A.T.A. carnet. However, the liability of the guaranteeing association shall not exceed the amount of the import duties by more than 10 percent. If an A.T.A. carnet is unconditionally discharged with respect to certain goods, the guaranteeing association will no longer be liable on the carnet with respect to those goods unless it is subsequently discovered that the discharged of the carnet was obtained fraudulently or improperly or that there has been a breach of the conditions of temporary admission or of transit. No claim for payment shall be made more than one year following the date of expiration of the validity of the carnet. The guaranteeing association shall be allowed a period of six months from the date of any claim by the district director in which to furnish proof of the reexportation of the goods or of any other proper discharge of the A.T.A. carnet. If such proof is not furnished within the time specified, the guaranteeing association shall either deposit or provisionally pay the sums. The deposit or payment shall become final three months after the date of the deposit or payment, during which time the guaranteeing association may still furnish proof of the reexportation of the goods to recover the sums deposited or paid. [TD 82-116]

(Sec. 551, 623, 46 Stat. 742, as amended, 759, as amended; 19 U.S.C. 1551, 1623)

§ 18.9 Examination by inspectors of trunk line associations or agents of the Interstate Commerce Commission.

(a) Upon presentation of proper credentials showing the applicant to be a representative of the Trunk Line Association, the Interstate Commerce Commission, the Joint Rate Inspection Bureau of Chicago, or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of Customs in charge shall permit such applicant to open and examine packages containing in-bond merchandise described in the manifest in general terms for the purpose of ascertaining whether the merchandise is properly classified under the interstate commerce laws. [TDs 33465, 33723, 40493.]

(b) The opening and examination of such packages shall be without expense to the Customs Service or the owner of the goods and shall be done in the presence of a Customs officer. The contents of the cases shall not be removed or disturbed further than is necessary to ascertain the character thereof. The Customs officer shall require the packages to be securely closed, and shall note on the manifest the packages so inspected, the date, and by whom inspected. (Sec. 551, 46 Stat. 742, as amended; 19 U.S.C. 1551)

§ 18.10 Kinds of entry.

(a) The following entries and withdrawals may be made for merchandise to be transported in bond:[4] **[TDs 38539, 48505, 53399.]**

(1) Entry for immediate transportation without appraisement.

(2) Warehouse or rewarehouse withdrawal for transportation.

(3) Warehouse or rewarehouse withdrawal for exportation or for transportation and exportation.

(4) Entry for transportation and exportation.

(5) Entry for exportation.

(b) The copy of each entry or withdrawal made in any of the classes named in paragraph (a) of this section which is retained in the office of the forwarding district director shall be signed by the party making the entry or withdrawal. In the case of shipments to the Virgin Islands (U.S.) under paragraph (a), (3), (4), or (5) of this section, one additional copy of the entry or withdrawal on Customs Form 7512 shall be filed and shall be mailed by the receiving district director to the district director, Charlotte Amalie, St. Thomas, Virgin Island (U.S.). (Secs. 552, 553, 557, 46 Stat. 742, as amended, 744, as amended; 19 U.S.C. 1552, 1553, 1557) **[TDs 53792, 54429.]**

§ 18.10a Special manifest.

Merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose Customs Form 7512 prepared in quadruplicate shall be used as a special manifest. **[TD 54544.]**

Immediate Transportation Without Appraisement

§ 18.11 Entry; classes of goods for which entry is authorized; form used.

(a) Entry for immediate transportation without appraisement may be made under section 552, Tariff Act of 1930,[5] (1) for any merchandise, except explosives and prohibited merchandise, upon its arrival at a port of entry, or (2) for merchandise in general-order warehouse at any time within 1 year from the date of importation. **[TDs 10850, 21219, 53888, 71–70.]**

(b) Entry for immediate transportation without appraisement may be made by (1) the carrier bringing the merchandise to the port of arrival, (2) the carrier who is to accept the merchandise under its bond or a carnet for transportation to the port of destination, or (3) any person shown by the bill of lading or manifest, a certificate of the importing carrier, or by any other document satisfactory to the district director of Customs, to have a sufficient interest in the merchandise for that purpose. **[CIE 376/59. TDs 20111, 54235, 71–70, 82–116.]**

(c) Before a shipment covered by an entry for immediate transportation, including a carnet, or a manifest of baggage shipped in bond (other than baggage to be forwarded in bond to a Customs station—see § 18.13(a)), shall be allowed to be transported directly to a place of deposit outside a port of entry for examination and release as contemplated by section 484(f), Tariff Act of 1930, as amended,[6] the consent of the district director of customs for the port of entry designated in the transportation entry or baggage manifest (or in the event of diversion under § 18.5, for the port of destination of the merchandise or baggage) must first be secured. Before consent may be given, the importer must furnish such district director with a stipulation that, promptly upon the arrival of any part of the merchandise or baggage at the place of deposit, he will file an entry for the shipment at the port of entry designated in the transportation entry or baggage manifest (or in the event of diversion under § 18.5, at the port of destination of the merchandise or baggage) and will comply with the provisions of § 151.9 of this chapter. **[CCL 11/54. TDs 53336, 54388, 71–70, 73–175, 82–116.]**

(d) Carload shipments of livestock shall not be entered for immediate transportation without appraisement unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under Customs supervision. **[TDs 43577, 43578.]**

(e) Entries for immediate transportation without appraisement covering merchandise subject to detention of supervision by any Federal agency shall contain a sufficient description of the merchandise to enable the representative of the agency concerned to determine the contents of the shipment. Such merchandise covered by quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine shall be forwarded under such entries only upon written permission of or under regulations issued by that Bureau.[7] **[TDs 38523, 49600.]**

(f) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder entered for immediate transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously and any carnet which may cover such merchandise is discharged as to that merchandise. **[TD 71-70, 82-116.]**

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[4] Before shipping merchandise in bond to another port for the purpose of warehousing or rewarehousing, the shipper should ascertain whether warehouse facilities are available at the intended port of destination.

[5] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States may be entered, under such rules and regulations as the Secretary of the Treasury may prescribe, for transportation in bond without appraisement to any other port of entry designated by the consignee, or his agent, and by such bonded carrier as he designates, there to be entered in accordance with the provisions of this Act." (Tariff Act of 1930, sec. 552; 19 U.S.C. 1552)

Special provisions concerning the shipment of baggage under this provision of law are contained in § 18.13.

[6] "* * * in the case of articles not subject to a quantitative or tariff-rate quota, entry for the entire quantity covered by an entry for immediate transportation made under section 552 of this Act may be accepted at the port of entry designated by the consignee, or his agent, in such entry after the arrival of any part of such quantity at such designated port or at such other place of deposit as may be authorized in accordance with regulations prescribed by the Secretary of the Treasury." (Tariff Act of 1930, sec. 484(f), as amended; 19 U.S.C. 1484(f))

[7] For procedure as to merchandise subject to quarantine, disinfection, and special inspection, if not forwarded in bond, see Part 12 of this chapter.

(g) Several importations may be consolidated in one immediate transportation without appraisement entry when bills of lading or carrier's certificates name only one consignee at the port of first arrival. However, merchandise moving under cover of a carnet may not be consolidated with other merchandise. **[TD 71-70, 82-116.]**

(h) Either Customs Form 7512 or a carnet shall be used as a combined transportation entry, invoice, and manifest. If Customs Form 7512 is used, a minimum of three copies shall be required at the port of origin. The district director, however, may require additional copies of Customs Form 7512 or the Goods Manifest of the carnet for use in connection with the delivery of the merchandise to the bonded carrier. In lieu of additional copies of the Goods Manifest, the district director may accept copies of a bill of lading covering the merchandise. The merchandise shall be described in such detail as to enable the district director to estimate the duties and taxes, if any, due. The district director may require evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry. If a TIR carnet is used, and the duties and taxes estimated to be due exceed the maximum liability of the guaranteeing association under the carnet, the provisions of § 114.22(d) of this chapter shall apply. **[CCL 48/57. TDs 37341, 39345, 48505, 50648, 51774, 53792, 53893, 54429, 55801, 71-70, 82-116.]**

(i) The value stated on the entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination and does not relieve the importer of the obligation to show the correct value on entry. (Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552) **[TD 71-70.]**

§ 18.12 Entry at port of destination.

(a) Merchandise received under an immediate transportation without appraisement entry may be entered for transportation and exportation or for immediate transportation, or under any other form of entry, and shall be subject to all the conditions pertaining to merchandise entered at a port of first arrival if not more than 1 year has elapsed from the date of original importation. If more than 1 year has elapsed, only an entry for consumption shall be accepted. Such entry shall show the name of the port of first arrival, the transporting carrier, and the number of the immediate transportation entry. (See § 127.2 of this chapter.) **[TDs 39514, 48505, 53399, 74-114.]**

(b) The right to make entry at the port of destination shall be determined in accordance with the provisions of § 141.11 of this chapter. **[TD 73-175.]**

(c) When a portion of a shipment is entered at the port of first arrival and the remainder is entered for consumption or warehouse at one or more subsequent ports, the entry at each subsequent port may be made on an extract of the invoice as provided for in § 141.84 of this chapter. **[TDs 12157, 38289, 73-175.]**

(d) All importations forwarded under immediate transportation without appraisement entries (including carnets) shall be held by the bonded carrier at the port of destination until released by the district director of customs. **[TD 71-70, 82-116.]**

(e) All merchandise included in an immediate transportation without appraisement entry (including carnets) not entered within 5 days, exclusive of Sundays and holidays, after delivery of the manifest to the district director at the port of destination shall be treated as unclaimed unless the district director, with the concurrence of the carrier, authorizes in writing a longer time. (Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552) **[TDs 30592, 39345, 53336, 53960, 71-70, 82-116.]**

Shipment of Baggage in Bond

§ 18.13 Procedure; manifest.

(a) Baggage may be forwarded in bond to another port of entry, or to a Customs station listed in § 101.4 of this chapter, at the request of the passenger, the transportation company, or the agent of either, with the use of a baggage manifest described in paragraph (b) of this section without examination or assessment of duty at the port or station of first arrival. For this purpose, the carrier shall furnish cards of bright red cardboard not less than 2 1/2 by 4 inches in size with the following printed text, for attachment (by wire or cord) to the baggage: **[TDs 38535, 48505, 53399, 53960, 53970, 54388, 70-121, 77-241.]**

United States Customs

Check No.________________________
Baggage in bond:
Carrier
From

to collector of customs

At (destination)________________________

This baggage must be delivered by carrier to the district director at destination. Failure to do so renders the carrier liable to a fine.

(b) A Customs manifest for baggage shipped in bond, Customs Form 7520, shall be prepared in triplicate for each shipment. Two copies of Form 7520 and the related Customs Form 7512-C (duplicate) shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the district director of Customs at the port of destination as a notice of arrival. **[TDs 31791, 41639, 48505, 53792, 54388, 71-70.]**

(c) Baggage arriving in bond or otherwise at a port on the Atlantic or Pacific coast, destined to a port on the opposite coast, may be laden under Customs supervision, without examination and without being placed in bond, on a vessel proceeding to the opposite coast, provided the vessel will proceed to the opposite coast without stopping at any other port on the first coast. (Secs. 498(a), 552, 46 Stat. 28, as amended, 742; 19 U.S.C. 1498(a), 1552) **[TD 47882.]**

§ 18.14 Shipment of baggage in transit to foreign countries.

The baggage of any person in transit through the United States from one foreign country to another may be shipped over a bonded route for exportation. Such baggage shall be shipped under the regulations prescribed in § 18.13, except that the card or paster shall be printed on yellow paper and shall read "Baggage in bond for export." See § 123.64 of this chapter for the regulations applicable to baggage shipped in transit through the United States between points in Canada or Mexico. (Secs. 498, 553, 46 Stat. 728, as amended, 742, as amended; 19 U.S.C. 1498, 1553) **[TDs 38535, 48505, 52039, 53970, 70–121.]**

Merchandise in Transit Through the United States to Foreign Countries

§ 18.20 Entry procedure; forwarding.

(a) When an importation is entered for transportation and exportation,[8] except as provided for in subparts D, E, F, and G of Part 123 of this chapter (relating to merchandise in transit through the United States between two points in contiguous foreign territory), a carnet or four copies of Customs Form 7512 shall be required. The district director of Customs, however, may require additional copies of Customs Form 7512 or the Goods Manifest of the carnet for use in connection with the delivery of the merchandise to, the bonded carrier. In lieu of additional copies of a Goods Manifest, the district director may accept copies of a bill of lading covering the merchandise. Acceptance of transportation and exportation entries shall be subject to the requirements prescribed in § 18.11(b) for entry of merchandise for immediate transportation without appraisement. **[CCL 48/57. CIEs 776/57; 376/59. TDs 22250, 24890, 30876, 32147, 34531, 37340, 45804, 48505, 50648, 51035, 53792, 53893, 54429, 56460, 70–121, 71–70, 82–116.]**

(b) Except in respect to merchandise covered by a carnet (see § 18.1(a)(2) and (3)), in places where no bonded common carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the district director may permit entry in accordance with the procedure outlined in paragraph (a) of this section if he is satisfied that the revenue will not be endangered. A bond on Customs Form 7557 in an amount equal to double the estimated duties shall be required when the district director deems such action necessary. (See § 113.55 of this chapter for cancellation of export bonds.) **[SCL 12/56. TDs 49658, 52595(1), 71–70, 74–227, 82–116.]**

(c) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8. If the merchandise is not forwarded within 30 days from the date the entry is filed, the entry shall be canceled and the merchandise treated as unclaimed as of the date of original arrival. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553) **[TD 51035.]**

§ 18.21 Restricted and prohibited merchandise.

(a) Merchandise subject upon importation to examination, disinfection, or further treatment under quarantines and Quarantine Division, Agricultural Research Service, Department of Agriculture, shall be released for transportation or exportation only upon written permission of, or under regulations issued by, that Bureau. (See §§ 12.10 to 12.15 of this chapter.) **[TDs 48505, 49600, 54292, 55039.]**

(b) Narcotics and other articles prohibited admission into the commerce of the United States shall not be entered for transportation and exportation and any such merchandise offered for entry for that purpose shall be seized, except that exportation or transportation and exportation may be permitted upon written authority from the proper governmental agency and/or compliance with the regulations of such agency.

(c) Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector that they are non-narcotic, shall be detained and subjected, at the carrier's risk and expense, to such examination as may be necessary to satisfy the district director whether or not they are of a narcotic character. A properly verified certificate of the shipper, specifying the items in the shipment and stating whether narcotic or not, may be accepted by the district director to establish the character of such a shipment. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553) **[TD 39308.]**

§ 18.22 Procedure at port of exit.

(a) If transfer is necessary, the procedure shall be as prescribed in § 18.3(d). **[TDs 37340, 48505.]**

(b) Upon the arrival at the port of exit of express shipments of articles shown by the manifest, Customs Form 7512, to be baggage and to be deliverable to the owner on board the exporting vessel, such articles may be transferred by the express company, without a permit from the district director and without the use of a transfer ticket or other Customs formality, from its terminal to the exporting vessel for lading under Customs supervision, if the express company is bonded as a common carrier and is responsible under its bond for the delivery of the articles to the Customs officer in charge of the exporting vessel. The manifest shall show the name of the owner of the baggage and the name of the vessel on which he intends to sail. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 18.23 Change of destination; change of entry.

(a) The foreign destination of such merchandise may be changed by the parties in interest upon notice to the district director at the port of exit from the United States. The district director at the port of exit, in his discretion, may report the application for a change of foreign destination to the district director at the port of entry. **[TDs 20909, 37340, 37460, 40351, 48505.]**

(b) Such merchandise may be entered for consumption or warehouse or under any other form of entry. If the merchandise is subject on importation to quarantine and regulations administered by the Bureau of Entomology and Plant Quarantine, it shall be entered for consumption or warehouse only upon written permission of, or under regulations issued by, that Bureau. (See §§ 12.10 to 12.15 of this chapter.) (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553) **[TDs 17688, 49600, 52492.]**

§ 18.24 Retention of goods on dock; splitting of shipments.

(a) Upon written application of a party in interest and the written consent of the owner of the dock, the district director of Customs, in his discretion, may allow in-transit merchandise, including merchandise covered by a carnet, to remain on the dock under the supervision of a Customs officer without extra expense to the Government for a period not exceeding 90 days. Upon further application, additional extensions of 90 days or less, but not to exceed 1 year from the date of importation, may likewise be granted by the district director.[9] The district director may take possession of the merchandise at any time. **[TDs 37340, 37460, 48106(4), 48280(13), 48505, 52169, 71-70, 82-116.]**

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[8] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of leading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe, and any baggage or personal effects not containing merchandise the importation of which is prohibited arriving in the United States destined to a foreign country may, upon the request of the owner or carrier having the same in possession for transportation, be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duty, under such regulations as the Secretary of the Treasury may prescribe. In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, sec. 553, as amended; 19 U.S.C. 1553)

(b) The splitting up of a shipment for exportation shall be permitted when exportation in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined, when the exporting vessel cannot properly accommodate the entire quantity, or in similar circumstances. In the case, however, of merchandise being transported under cover of a carnet, splitting up of a shipment shall not be permitted. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553) **[TD 71-70, 82-116.]**

Exportation[10] From Customs Custody of Merchandise Unentered or Covered by an Unliquidated Consumption Entry, or Merchandise Denied Admission by the Government

§ 18.25 Direct exportation.

(a) Except as otherwise provided for in Subpart F of Part 145 of this chapter, relating to exportations by mail, when no entry has been made or completed for merchandise in Customs custody, or when the merchandise is covered by an unliquidated consumption entry, or when merchandise which has been entered in good faith is found to be prohibited under any law of the United States, and such merchandise is to be exported directly without transportation to another port, four copies of Customs Form 7512 shall be filed. If a TIR carnet covers the merchandise which is to be exported directly without transportation, the carnet shall be discharged or canceled, as appropriate (see Part 114 of this chapter), and four copies of Form 7512 shall be filed. The district director may require an extra copy or copies of Form 7512 to be furnished for use in connection with delivery of the merchandise to the carrier named in the entry. If an A.T.A. carnet covers the merchandise which is to be exported directly without transportation, the carnet shall be discharged by the certification of the appropriate transportation and reexportation vouchers by Customs officers as necessary. **[TDs 46858, 48505, 50648, 52570, 52662, 53098, 53792, 53893, 71-70, 73-135, 82-116.]**

(b) An exportation bond on Customs Form 7557, 7559, or other appropriate form shall be required with the entry, provided a consumption entry bond on Customs Form 7551 or 7553 or other appropriate form was not previously given. (See also § 158.45 of this chapter.) **[TDs 47555, 52482, 72-258.]**

(c) If the merchandise has been landed or is transferred from one vessel to another and has not been entered for consumption or, in the case of goods entered for consumption and rejected, such export declaration as required by § 30.3(a)(2) of the Foreign Trade Statistics Regulations (15 CFR 30.3(a)(2)) shall be filed. **[TDs 53399, 68-299.]**

(d) If the merchandise is exported in the importing vessel without landing, a representative of the exporting carrier who has knowledge of the facts shall certify that the merchandise entered for exportation was not discharged during the vessel's stay in port. A charge shall be made against the vessel term bond, Customs Form 7569, if on file, or a vessel bond on Customs Form 7567 shall be given as in the case of residue cargo for foreign ports. If the merchandise is covered by a TIR carnet, the carnet shall not be taken on charge (see § 114.22(c)(2) of this chapter). **[TDs 47555, 53893, 71-70.]**

(e) Gunpowder and other explosive substances, the deposit of which in any public store or bonded warehouse is prohibited by law, may be entered on arrival from a foreign port for immediate exportation in bond by sea, but shall be transferred directly from the importing to the exporting vessel.

§ 18.26 Indirect exportation.

(a) When merchandise of the character enumerated in § 18.25(a) is to be transported in bond to another port for exportation, it may be entered for transportation and exportation in accordance with the procedure in § 18.20. No bond on Customs Form 7557 or 7559 shall be required as the bond of the importing carrier is sufficient to insure the safekeeping of the merchandise pending its exportation. In the case of merchandise prohibited entry by any Government agency, that fact shall be prominently noted on Customs Form 7512 for the information of the district director of Customs at the port of exportation. If the merchandise was imported under cover of a TIR carnet, the carnet shall be discharged or canceled at the port of importation and the merchandise transported under an entry on Customs Form 7512 (see § 18.25). If merchandise has been imported under cover of an A.T.A. carnet to be transported in bond to another port for exportation, the appropriate transit voucher shall be accepted in lieu of Customs Forms 7512. One transit voucher shall be certified by Customs officers at the port of importation and a second transit voucher, together with the reexportation voucher, shall be certified at the port of exportation. **[TDs 55801, 71-70, 82-116.]**

(b) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(c) If the merchandise is to be transferred after arrival at the selected port of exportation, the procedure prescribed in § 18.3(d) shall be followed. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases.

§ 18.27 Port marks.

Port marks may be added by authority of the district director and under the supervision of a Customs officer. The original marks and the port marks shall appear in all papers pertaining to the exportation.

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[9] "Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government * * *" (Tariff Act of 1930, sec. 491, as amended 19 U.S.C 1491)

[10] "If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry therefor having been made, the same shall be considered and treated as having been imported into the United States contrary to law, and all persons concerned therein and such merchandise shall be liable to the same penalties as are prescribed by section 593 of this Act." (Tariff Act of 1930, sec. 589; 19 U.S.C. 1589)

Merchandise Not Otherwise Subject to Customs Control Exported Under Cover of a TIR Carnet

§ 18.41 Applicability.

The provisions of § § 18.41 through 18.45 apply only to merchandise to be exported under cover of a TIR carnet for the convenience of the U.S. exporter or other party in interest and do not apply to merchandise otherwise required to be transported in bond under the provisions of this chapter. Merchandise to be exported under cover of a TIR carnet for the convenience of the U.S. exporter or other party in interest may be transported with the use of the facilities of either bonded or nonbonded carriers. (80 Stat. 379, R.S. 251, as amended, secs. 551, 624, 46 Stat. 742, as amended; 19 U.S.C. 1551) **[TDs 71-70, 71-263.]**

§ 18.42 Direct exportation.

At the port of exportation, the container or road vehicle, the merchandise, and the TIR carnet shall be made available to the district director of Customs. Any required export declarations shall be filed in accordance with the applicable regulations of the Bureau of the Census (15 CFR Part 30) and the Office of Export Control (15 CFR Part 386). The district director shall examine the merchandise to the extent he believes necessary to determine that the carnet has been properly completed and shall verify that the container or road vehicle has the necessary certificate of approval or approval plate intact and is in satisfactory condition. After completion of any required examination and supervision of loading, the district director shall cause the container or road vehicle to be sealed with Customs seals and ascertain that the TIR plates are properly affixed and sealed. (See § 18.4a.) In the case of heavy or bulky goods moving under cover of a TIR carnet, the district director shall cause a Customs seal or label, as appropriate, to be affixed. He shall also remove two vouchers from the carnet, execute the appropriate counterfoils, and return the carnet to the carrier or agent to accompany the merchandise. **[TD 71-70.]**

§ 18.43 Indirect exportation.

(a) When merchandise is to move from one U.S. port to another for actual exportation at the second port, any export declarations required to be validated shall be filed in accordance with the port of origin procedure described in the applicable regulations of the Bureau of the Census and of the Office of Export Control. **[TD 71-70.]**

(b) The district director shall follow the procedure provided in § 18.42 in respect to examination of the merchandise, supervision of loading, sealing or labeling, and affixing of TIR plates. He shall remove one voucher from the carnet, execute the appropriate counterfoil, and return the carnet to the carrier or agent to accompany the container or road vehicle to the port of actual exportation.

(c) At the port of actual exportation, the carnet and the container (or heavy or bulky goods) or road vehicle shall be presented to the district director who shall verify that seals or labels are intact and that there is no evidence of tampering. After verification, the district director shall remove the appropriate voucher from the carnet, execute the counterfoil, and return the carnet to the carrier or agent.

§ 18.44 Abandonment of exportation.

In the event that exportation is abandoned at any time after merchandise has been placed under cover of a TIR carnet, the carrier or agent shall deliver the carnet to the nearest customs office or to the Customs office at the port of origin for cancellation (see § 114.26(c) of this chapter). When the carnet has been canceled, the carrier or agent may remove Customs seals or labels and unload the container (or heavy or bulky goods) or road vehicle without customs supervision. **[TD 71-70.]**

§ 18.45 Supervision of exportation.

The provisions of § § 18.41 through 18.44 do not require the district director of Customs at the port of actual exportation to verify that merchandise moving under cover of a TIR carnet is loaded on board the exporting carrier. **[TD 71-70.]**

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

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Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72, 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14763, Dec. 31, 1963, unless otherwise noted. §§ 19.40–19.49 added by T.D. 72-68, 37 FR 4186, Feb. 29, 1972.

§ 19.1 Classes of customs warehouses.

(a) Customs warehouses shall be designated according to the following classifications: **[TDs 22184, 48465, 50974, 53550, 55974.]**

(1) *Class 1.* Premises owned or leased by the Government and used for the storage of merchandise undergoing examination by the Customs Officer, under seizure, or pending final release from Customs custody.[1] Unclaimed merchandise stored in such premises shall be held under "general order."[2]
When such premises are not sufficient or available for the storage of seized and unclaimed goods, such goods may be stored in a warehouse of class 3, 4, or 5. So far as such warehouses are used for this purpose, they shall be designated "bonded stores." If there are no warehouses of these classes available, the district director may, with the approval of Headquarters, U.S. Customs Service, rent suitable premises for the storage of seized and unclaimed goods.[3]

(2) *Class 2.* Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of class

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[1] "Any premises owned or leased by the Government and used for the storage of merchandise for the final release of which from customs custody a permit has not been issued shall be known as a 'public storage.'" (Tariff Act of 1930, sec. 561, 19 U.S.C. 1561)

[2] "The Secretary of the Treasury may cause to be set aside any available space in a building used as a customhouse for the storage of bonded merchandise or may lease premises for the storage of unclaimed merchandise or other imported merchandise required to be stored by the Government, and set aside a portion of such leased premises for the storage of bonded merchandise: *Provided,* That no part of any premises owned or leased by the Government may be used for the storage of bonded merchandise at any port at which a public bonded warehouse has been established and is in operation. All the premises so leased shall be leased on public account and the storage and other charges shall be deposited and accounted for as customs receipts, and the rates therefor shall not be less than the charges for storage and similar services made at such port of entry by commercial concerns for the storage and handling of merchandise. No collector or other officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. No lease of any building to be so used shall be taken for a longer period than three years, nor shall rent for any such premises be paid, in whole or in part, in advance." (Tariff Act of 1930, sec. 560, 19 U.S.C. 1560)

[3] "Buildings or parts of buildings and other inclosures may be designated by the Secretary of the Treasury [Commissioner of Customs] as bonded warehouses for the storage of imported merchandise entered for warehousing, or taken possession of by the collector, or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise. Such warehouses may be bonded for the storing of such merchandise only as shall belong or be consigned to the owners or proprietors thereof and be known as private bonded warehouses, or for the storage of imported merchandise generally and be known as public bonded warehouses * * *" (Tariff Act of 1930, sec. 555, 19 U.S.C. 1555)

4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it shall be known as a private bonded warehouse.

(3) *Class 3.* Public bonded warehouses used exclusively for the storage of imported merchandise. **[TD 53399.]**

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk. If the district director deems it necessary, the yards shall be enclosed by substantial fences with entrance and exit gates capable of being secured by Customs locks. The inlets and outlets to tanks shall be secured by means of seals or Customs locks in combination with steel chains.

(5) *Class 5.* Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions shall be effectively separated from the rest of the building.

(6) *Class 6.* Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.[4]

(7) *Class 7.* Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.[5] **[TD 55974.]**

(8) *Class 8.* Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under Customs supervision and at the expense of the proprietor.[6]

(b) The whole or a part of any warehouse of class 1, 2, 3, 4, 5, 6, or 7 may be designated a constructive manipulation (class 8) warehouse when the exigencies of the service so require. **[TDs 53336, 55974, 76-277.]**

(c) When parts of buildings are used as Customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible to enter the premises in the absence of the Customs warehouse officer without such violence as to make the entry easy to detect. The partitions may be constructed of raised expanded metal (steel), steel chain-link fence fabric, or wood materials and shall comply with the following specifications:

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[4] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be proscribed by the Secretary of the Treasury:

Provided, further, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them shall not be permitted in such manufacturing warehouses.

"Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

"No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days from the date of the enactment of this Act shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

"Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse, but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

"Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, who shall certify to such shipment and exportation, or ladening for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: *Provided*, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

"A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

"Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

"Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom: *Provided*, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

"The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this Act and to the merchandise conveyed therein.

"Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

[5] "(a) Any plant engaged in smelting or refining, or both, of metal-bearing materials as defined in this section may, upon the giving of satisfactory bond, be designated a bonded smelting or refining warehouse. * * *" (Tariff Act of 1930, sec. 312, as amended; 19 U.S.C. 1312.)

[6] "Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: *Provided*, That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the adjusted final appraised value, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise, such rate shall be based upon or regulated by such adjusted final appraised value. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section. Under such regulations as the Secretary of the Treasury shall prescribe imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U.S.C. 1562)

(1) *Expanded metal.* The expanded metal shall be at least 9 gauge (of a diameter of .148 inches), with mesh openings not to exceed 2 inches in the larger dimension, and shall be welded to corner posts of at least 3 × 3 × 5/16 inch angle iron. The intermediate posts shall be at least 2 × 2 × 3/16 inch angle iron. Top, middle, and bottom rails of at least 2 × 2 × 3/16 inch angle iron are required.

(2) *Steel chain-link fence.* Steel chain-link fence fabric shall be at least 9 gauge (of a diameter of .148 inches) with mesh openings not to exceed 2 inches in the larger dimension. The wire mesh must be installed on a galvanized steel tubular frame consisting of 2 7/8 inch outer diameter (O.D.) corner and gate posts, 2 3/8 inch O.D. intermediate posts and 1 5/8 inch O.D. top, middle, and bottom rails. The posts shall be affixed to the true floor and true ceiling in a manner which precludes their easy removal. The chain-link fabric shall be securely fastened to all corner posts using 3 1/6 × 3/4 inch tension bars and 11 gauge tension bands. There shall be one band for each foot in the height of the fence fabric. The bolts used to affix these bands to the fence shall be bent, peened, welded or altered to preclude the removal of the nut from the bolt. The fabric shall be fastened to the intermediate posts and top, middle, and bottom rails with 9 gauge tie wires, double wrapped, on one foot centers. In those cases where more than one width of fence fabric is required there shall be an overlap of at least one foot.

(3) *Wood.* Wood partitions shall be constructed of not less than 1 inch boards (dressed if desired) of uniform length between supports, nailed with not less than tenpenny nails to not less than 2 × 4 inch stud framing and held in place by 1/8 × 2 inch metal cover-strips secured over the nailed ends, with carriage bolts through the boards and partition framing. Plywood of not less than 3/4 inch thickness may be substituted for the 1 inch thick wood boards providing it is erected in the same manner prescribed for the boards. Gates may be constructed of any of the materials specified for partitions. Depending on their size and swing, the gates shall be constructed in such a manner, and of materials of sufficient strength, to preclude any possible sagging condition. They shall be equipped with a positive-type latching device with provision for accepting a Customs-approved padlock. The specifications set forth in this paragraph shall be applicable to all partitions (including gates) constructed, reconstructed, renovated, or otherwise installed or altered on or after October 28, 1976. (Secs. 311, 312, 555, 556, 557, 560, 561, 562, 46 Stat. 691, as amended, 692, as amended, 743, 744, as amended, 745, as amended; 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562)

General Provisions

§ 19.2 Application to bond; bond; renewal of.

(a) An owner or lessee desiring to establish a bonded warehouse shall make written application to the district director, describing the premises, giving their location, and stating the class of warehouse and shall transmit therewith the fee of $80 prescribed by § 24.12 of this chapter. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse is to be operated as a private bonded warehouse, the application shall also state the general character of the merchandise to be stored therein, with an estimate of the maximum duties and taxes which will be due on such merchandise at any one time.[7] All storage warehouses operated by one proprietor in the same Customs district may be included in one bond. **[TDs 38547, 38652, 52019, 53385, 55466, 56107, 56393.]**

(b) The applicant shall submit evidence of fire insurance coverage on the proposed warehouse. If the applicant does not have fire insurance for the proposed warehouse, he shall submit a certificate signed by an officer or agent of each of two insurance companies stating that the building is acceptable for fire-insurance purposes. The application shall also be accompanied by a blueprint showing measurements, openings, etc., of the building or space to be bonded. If the warehouse to be bonded is a tank, the blueprint shall show all outlets, inlets, and pipe lines and shall be certified as correct by the proprietor of the tank. A gauge table showing the capacity of the tank in United States gallons per inch or fraction of an inch of height, certified by the proprietor to be correct, shall accompany the application. When a part or parts of a building are to be used as the warehouse, there shall be given a detailed description of the materials and construction of all partitions. When the proprietor is the lessee of the premises covered by the application and bond, he shall furnish a stipulation concurred in by the sureties, agreeing that, prior to the expiration of the lease covering the premises without renewal thereof, he will (1) transfer any merchandise remaining in the bonded warehouse to an approved bonded warehouse, (2) pay all duties, charges, or exactions due on such merchandise, or (3) otherwise dispose of such merchandise in accordance with the Customs laws and regulations. **[TD 78-80.]**

(c) On approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a bond shall be executed on Customs Form 3581.[8]

(d) On approval of the application to bond a proprietor's manufacturing warehouse, class 6, a bond shall be executed in duplicate on Customs Form 3583. In the case of a bonded smelting and refining warehouse, class 7, the bond shall be executed with the required number of copies and in the form prescribed in T.D. 50267, as amended by T.D. 52403. All documents referred to in paragraph (b) of this section as may relate to proprietor's warehouse bonds, class 6 or 7, shall be submitted in duplicate. **[TDs 52019, 53399.]**

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[7] "If any merchandise is fraudulently concealed in, removed from or repacked in any bonded warehouse, or if any marks or numbers placed upon packages deposited in such a warehouse be fraudulently altered, defaced, or obliterated, such merchandise and packages shall be subject to forfeiture, and all persons convicted of the fraudulent concealment, repacking, or removal of such merchandise, or of altering, defacing, or obliterating such marks and numbers thereon, and all persons aiding and abetting therein shall be liable to the same penalties as are imposed by section 593 of this Act." (Tariff Act of 1930, sec. 597, 19 U.S.C. 1597)

[8] "* * * Before any imported merchandise not finally released from customs custody shall be stored in any such premises, the owner or lessee thereof shall give a bond in such sum and with such sureties as may be approved by the Secretary of the Treasury [Commissioner of Customs] to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouses * * *" (Tariff Act of 1930, sec. 555, 19 U.S.C. 1555)

(e) Any proprietor of a bonded warehouse may be required on 10 days' notice from the district director to furnish a new proprietor's warehouse bond; and if he fails to do so, no more goods shall be sent to the warehouse and those therein shall be removed at the expense of such proprietor. A new bond is required if the bonded warehouse is substantially altered or rebuilt. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.3 Bonded warehouses; alterations; suspensions; discontinuance.

(a) Alterations in bonded warehouses, class 6 or 7, may be made by permission of the district director, unless they constitute a material change in the premises, in which case the approval of Headquarters, U.S. Customs Service is required. All alterations to warehouses of class 2, 3, 4, 5, or 8, or combinations thereof, may be made by permission of the district director without approval of Headquarters, U.S. Customs Service. **[TD 52019.]**

(b) The use of all or part of a bonded warehouse or bonded floor or space may be temporarily suspended by the district director on written application of the proprietor if there are no bonded goods in the area concerned. Upon the removal of all free goods, if any, the premises may again be used for the storage of bonded goods upon written application of the proprietor. In each case the district director shall indicate his action by endorsement on the application. Rebonding will not be necessary. **[TD 53759.]**

(c) Headquarters, U.S. Customs Service may discontinue the bonded status of a warehouse at any time for reasonable cause. The district director may take similar action in the case of a warehouse of class 2, 3, 4, 5, or 8. When the proprietor desires to discontinue the bonded status of his warehouse, he shall make written application therefor to the district director. If the application is approved by the district director, he shall require all goods in such warehouse upon which the duty has not been paid to be transferred to another bonded warehouse without expense to the Government. The number of warehouses covered by a general bond may be reduced by discontinuance without necessitating a new bond unless the proprietor so desires. **[TDs 38652, 52019.]**

(d) The bonded status of a warehouse may be discontinued if, within 30 days after the date of receipt of a written demand by the district director, the proprietor fails to submit a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by him in the carriage, receiving, storage or delivery of imported merchandise; or if, having furnished such a list, the proprietor fails to advise the district director in writing of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed by him in the carriage, receiving, storage or delivery of imported merchandise within 10 days after such employment. If the employment of any such person is terminated, the proprietor shall promptly advise the district director. For the purpose of this part, a person shall not be deemed to be employed by a warehouse proprietor if he is an officer or employee of an independent contractor engaged by the warehouse proprietor to load, unload, transport, or otherwise handle imported merchandise. **[TD 71-39.]**

(e) The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to show cause why his right to continue the bonded status of his warehouse should not be discontinued for failure to comply with the requirements established in accordance with paragraph (d) of this section. Such notice shall advise him of the allegations and shall afford him the right to respond in writing within 10 days. Thereafter, the district director shall consider the allegations and responses made by the said proprietor unless the proprietor in his response requests a hearing. If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following requests therefor. The proprietor may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the proprietor of the warehouse. At the conclusion of such proceeding or review of a written response, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs together with his recommendation for final action. The proprietor may submit in writing additional views or arguments to the Commissioner, following a hearing on the basis of the stenographic record, within 10 days after delivery to him of a copy of such record. The Commissioner shall thereafter render his decision in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be served on the proprietor of the warehouse. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[TD 71-39.]**

§ 19.4 Officers; safety and sanitary requirements; supervision.

(a) Suitable accommodations for the Customs warehouse officer shall be provided by the proprietor of the warehouse. An office for the accommodation of the warehouseman may be allowed in the bonded premises if separated by a partition from the space used for the storage of bonded goods. **[TD 53336.]**

(b) Fires shall not be permitted in any warehouse, other than warehouses of classes 6, 7, and 8, except in the office of the Customs warehouse officer and warehouseman. When lights are required, only safety lanterns or electric lights shall be used.

(c) All the doors and other entrances of bonded warehouses shall be secured by Customs locks.

(d) In the case of merchandise subject to the Federal Food, Drug, and Cosmetic Act particular care shall be exercised by the warehouseman to keep the premises clean and free of rodents, insect infestation, trash, or other insanitary conditions. **[TD 52019.]**

(e) The character and extent of the Customs supervision to be exercised in connection with any warehouse or transaction provided for in this part shall be in accordance with § 23.35 of this chapter. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[TD 53336.]**

§ 19.5 Customs warehouse officer; compensation of.

(a) The district director shall, when necessary, designate one or more employees to act as Customs warehouse officers of each bonded warehouse or public store.[9] **[TDs 37374(83), 39797.]**

(b) The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under 5 U.S.C. 5545. The rate per hour equal to 137 percent of the hourly rate of regular pay is computed as follows: **[TDs 51075, 51295, 51387, 51508, 52980, 53399, 66-175, 69-169, 70-261.]**

	Hours	Hours
Gross number of working hours in 52 40-hour weeks		2,080
Less:		
9 legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	72	
Annual Leave—26 days	208	
Sick Leave—13 days	104	384
Net number of working hours		1,696
Gross number of working hours in 52 40-hour weeks		2,080
Working hour equivalent of Government contributions for employee uniform allowance, retirement, life insurance and health benefits computed at 11 1/2 percent of annual rate of pay of employee		239
Equivalent annual working hour charge to Customs appropriation		2,319
Ratio of annual number of working hours charged to Customs appropriation to net number of annual working hours 2319/1696=137 percent.		

The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542(a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (26 U.S.C. 3101, *et seq.*), and employee uniform allowance. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed excluding lunch periods, charged in multiples of 1 hour, any fractional part of an hour to be charged as 1 hour when the services are performed during the regularly scheduled tour of duty of the warehouse officer or between the hours of 8 a.m. and 5 p.m. on weekdays when the officer has no regularly scheduled tour of duty. In no case shall the charge be less than $1. **[TDs 71-287, 74-139.]**

(c) The necessary transportation expenses and any authorized per diem expenses of a Customs employee assigned to perform services at a warehouse at which he is not regularly assigned shall be reimbursed by the warehouse proprietor. **[TDs 51387, 51407, 54876, 55222.]**

(d) When a Customs officer is regularly assigned to duty at more than one warehouse, the charge for his compensation and transportation expenses in going from one bonded warehouse to another shall be equitably apportioned among the respective warehouse proprietors concerned. However, no charge shall be made for transportation expenses when a Customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty. **[TDs 51387, 54486, 54876, 55222.]**

(e) Upon the failure of the warehousemen to pay such charges when due, or to comply with the laws and regulations applicable to bonded warehouses, the district director shall refuse entry of merchandise for such warehouse and report the facts to Headquarters, U.S. Customs Service. (Sec. 5, 36 Stat. 901, as amended, secs. 451, 555, 556, 46 Stat. 715, as amended, 743, as amended, 68A Stat. 416, as amended; 5 U.S.C. 5332, 5504, 5542, 5545, 5546, 6101, 19 U.S.C. 267, 1451, 1555, 1556, 26 U.S.C. 3111); R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) **[TDs 54876, 74-139.]**

§ 19.6 Permits; releases.

(a) Upon the receipt of a permit signed by the district director, or other Customs officer designated for such purpose, the Customs warehouse officer shall release the merchandising covered thereby to the warehouse proprietor, unless the proprietor furnishes a delivery order authorizing release to some other person, in which case the merchandise shall be released to the person designated by the proprietor.[10] If the permit bears the endorsement provided for in § 144.38(e) of this chapter, release in accordance with the foregoing shall be withheld, subject to the provisions of § 127.14(c) of this chapter, pending the lodging of an order to release on Customs Form 7505-B. **[3 Pet. 292. TDs 16545, 16693, 16896, 17188, 17720, 19242, 19340, 19378, 19813, 53336, 73-175, 74-114.]**

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[9] "* * * Except as otherwise provided in this Act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a proper officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse; and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse." (Tariff Act of 1930, sec. 555; 19 U.S.C. 1555)

(b) Before delivery is permitted, the permit shall be endorsed to show that storage, cartage, labor, and other charges due the Government have been paid. **[TD 21158. 13 Wallace 29. 3 Woods, 408. 60 Ga. 61. 10 Rich. L. 474.]**

(c) Merchandise covered by a notice of lien filed by the carrier shall not be released until the lien has been satisfied or discharged.[11]

§ 19.7 Expenses of labor and storage.

(a) All merchandise deposited in public stores or in bonded warehouses shall be held liable for the expenses of labor and storage chargeable thereon at the customary rates and for all other expenses accruing upon the goods. **[TDs 22346, 24894, 28306.]**

(b) The rates of storage and labor shall be agreed upon between the importer and the warehouse proprietor, but in case of disagreement the district director may, with the consent of all parties in interest, determine the rates to be charged.

(c) Except in cases provided for by § 141.102(d) of this chapter, when merchandise is stored in a public store under a warehouse entry, general order or otherwise, the charges for storage due the Government shall be paid before the packages are delivered. The charges shall be based upon the existing bonded warehouse tariff of the port for storage and labor. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[CIE 395/40. TD 52156, 73-175.]**

§ 19.8 Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.

Importers may, upon application approved by the district director on Customs Form 3499 and under the supervision of the Customs warehouse officer, examine, sample, and repack[12] or transfer merchandise in bonded warehouse. Where there will be no interference with the orderly conduct of Customs business and no danger to the revenue prospective purchaser may be permitted to examine merchandise in bonded warehouses upon the written request of the owner, importer, consignee, or transferee. **[TDs 46325, 53336.]**

§ 19.9 [Reserved]

§ 19.10 Examination packages.

Merchandise sent from a bonded warehouse to the appraiser's stores for examination shall be returned by the district director to the warehouse for delivery unless the warehouseman shall endorse on the duty-paid permit that the merchandise may be otherwise released. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

Manipulation in Bonded Warehouses and Elsewhere

§ 19.11 Manipulation in bonded warehouses and elsewhere.

(a) So far as applicable, the general provisions of the regulations governing warehouses bonded for the storage of imported merchandise shall apply to bonded manipulation warehouses and to other designated places of manipulation.[14] **[TDs 41038, 48465, 49658.]**

(b) Merchandise to be manipulated under section 562, Tariff Act of 1930, as amended,[15] may be entered on Customs Form 7502 and sent directly to a storage-manipulation warehouse.

(c) Merchandise entered for warehouse may be transferred to a storage-manipulation warehouse; or merchandise entered for storage-manipulation warehouse may be transferred after manipulation to the storage portion of the same warehouse, to another storage warehouse, or to a manufacturing warehouse of class 6.

(d) The application to manipulate, which shall be filed on Customs Form 3499 with the district director having jurisdiction of the warehouse or other designated place of manipulation, shall describe the contemplated manipulation in sufficient detail to enable the district director to determine whether the imported merchandise is to be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, within the meaning of section 562, Tariff Act of 1930, as amended. If the district director is satisfied that the merchandise is to be so manipulated, he may issue a permit on Customs Form 3499, making any necessary modification in such form. Manipulation resulting in a change in condition of the merchandise, which will make it subject to a lower rate of duty or free of duty upon withdrawal for consumption, is not precluded by the provisions of such section 562. **[TDs 47826 (6), 49295, 53792, 54067.]**

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[10] "* * * merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *" (Tariff Act of 1930, sec. 484(j); 19 U.S.C. 1484(j)).

The Government will not compel a warehouseman to deliver bonded goods as the interest of the Government is in the collection of the duty on the merchandise or its exportation, and any question of infringement of private rights by the warehouseman must be left to the parties in interest.

[11] Imported goods in bonded warehouses are exempt from taxation or judicial process of any State or subdivision thereof. (See T.D. 50200) (Secs. 484(j), 555, 556, 46 Stat. 723, 743; 19 U.S.C. 1484(j), 1555, 1556)

[12] Repacking shall be considered a manipulation within the purview of sec. 562, Tariff Act of 1930, as amended. (Secs. 555, 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1555, 1556, 1562)

[14] "* * * Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U.S.C. 1562)

[15] "* * * upon permission therefore being granted by the Secretary of the Treasury [Commissioner of Customs], under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in conditions. * * *" (Tariff Act of 1930, sec. 562, as amended; 19 U.S.C. 1562)

(e) No merchandise shall be manipulated elsewhere than in a bonded warehouse unless the merchandise has been regularly entered for consumption or warehouse and is of a class entitled to the warehousing privilege under section 557, Tariff Act of 1930, as amended. **[TD 49658.]**

(f) Upon compliance with the provisions of paragraph (d) of this section, manipulated merchandise may be further manipulated before withdrawal in cases where the district director is satisfied that this will not endanger the revenue or interfere with the efficient conduct of Customs business. The merchandise remaining in the warehouse shall be properly repacked after each manipulation.

(g) Manipulated merchandise may be withdrawn under any form of withdrawal, but no withdrawal shall be accepted for less than an entire repacked package. Each type of withdrawal filed shall contain a summary statement indicating the quantity in the warehouse account after manipulation and immediately before the withdrawal, the quantity withdrawn on the particular withdrawal, and the quantity remaining in the warehouse after the withdrawal. When merchandise covered by a consumption entry is manipulated elsewhere than in a bonded warehouse and thereafter withdrawn for consumption, the withdrawal shall be on Customs Form 7505 and shall be liquidated in accordance with § 159.9 of this chapter. (Secs. 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1556, 1562) **[TDs 43151, 53792.]**

Accounts

§ 19.12 Certification of Customs warehouse officer's reports.

Before transmittal to the district director, the Customs warehouse officer's report of merchandise received, delivered, released, withdrawn, or transferred shall be certified by the proprietor of the warehouse to be correct. (Sec. 556, 46 Stat. 743; 19 U.S.C. 1556) **[TD 53336.]**

Manufacturing Warehouses

§ 19.13 Requirements for establishment of warehouse.

(a) Buildings or parts of buildings and other enclosures may be designated as bonded manufacturing warehouses if Headquarters, U.S. Customs Service is satisfied that their location, construction, and arrangement afford adequate protection to the revenue.[16] Such warehouses shall be used solely and exclusively for the purpose for which they are bonded. The general provisions pertaining to warehouses for the storage of bonded merchandise shall, so far as relevant, apply to bonded manufacturing warehouses. **[TDs 38547, 47195, 52395.]**

(b) Application for the establishment of such a warehouse shall be made to the district director for the port where the premises are situated, setting forth the size, construction, and location of the premises, the manufacture proposed to be carried on, and the kinds of materials intended to be stored and used therein.

(c) The procedure outlined in § 19.2 with respect to the application to bond the premises and the execution of the bond shall be followed. **[TDs 49365, 53399.]**

(d) A list of all articles intended to be manufactured in the warehouse shall be filed in duplicate with the district director, who shall transmit one copy to Headquarters, U.S. Customs Service. Such list shall set forth the specific names under which the articles are to be exported and under which they will be known to the trade, and shall show the names of all the ingredients entering into the manufacture of such articles, with the quantities of such ingredients or materials as may be dutiable or taxable.[17]

(e) Proprietors of such warehouses are required to conform strictly to the formulas filed with the bond, or subsequently, and in no instance shall an article be permitted to be manufactured in or withdrawn from the warehouse which does not contain all the ingredients and in the quantities specified in the formula for the manufacture of such article, or which contains any ingredient not specified in the formula. **[TD 18278.]**

(f) Manufactured articles shall be marked with the trade name of the goods and may be marked, in addition, with the formulas and with such insignia or name as may be indicated or desired by the purchaser, if such additional marking will in no manner conflict with the requirements of the formula or present or create a false or misleading statement or impression. **[TDs 21799, 53336.]**

(g) Each bonded manufacturing warehouse shall have a portion separated from the remainder of the premises and secured by Customs locks to be used exclusively for the storage of all imported merchandise, domestic spirits, or other materials subject to internal-revenue tax transferred into such warehouse for manufacture. A like compartment shall be provided to be used exclusively for the storage of products manufactured in the warehouse. The premises shall be so secured as to prevent any person from having access thereto in the absence of the Customs warehouse officer in charge, and the goods stored therein shall be so arranged as to give all practicable convenience to such officer in making the required examination or taking samples for analysis. (Sec. 311, 46 Stat. 691, as amended; 19 U.S.C. 1311)

§ 19.14 Materials for use in manufacturing warehouse.

(a) Imported merchandise to be used in a bonded manufacturing warehouse shall be entered on Customs Form 7521 at the port at which such warehouse is located. Such form shall be prepared in 5 copies and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. If the merchandise is not to be taken immediately to the manufacturing warehouse, a warehouse or rewarehouse entry, as the case may be, shall be made and Customs Form 7521 used as a combined withdrawal and entry for manufacturing warehouse. If the merchandise has been imported or entered for warehouse at another port, it may be forwarded to the port at which the manufacturing warehouse is located under an immediate transportation without appraisement entry or warehouse withdrawal for transportation, whichever is applicable. **[TDs 18868, 73-312.]**

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[16] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

[17] "* * * Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury [Commissioner of Customs] a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein; * * *." (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

(b) Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 7571 in an amount equal to double the estimated duties shall be required unless a general bond on Customs Form 3583 has been given.

(c) When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except merchandise subject to internal-revenue tax, to be used in connection with the manufacture of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, and labels used in putting up such articles, an application shall be executed in duplicate in the following form, one copy to be filed with the district director and the other with the Customs warehouse officer in charge of the warehouse: **[TD 53399.]**

Application To Receive Free Materials

Port of—————————.
——————, 19——.

To the District Director:

Application is hereby made to receive into the bonded manufacturing warehouse known as ——————, situated at ———
——, the following-described articles and materials:

Marks	Nos.	Description	Quantity	Value

(Signature)

Port ——————, ———————— 19———.

To the customs warehouse officer in charge of the bonded manufacturing warehouse specified above:

The above-described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein in connection with the manufacture of articles as authorized by law.

District Director

(d) For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on Customs Form 7571 shall be required unless the warehouse is covered by a bond on Customs Form 3583. (Sec. 311, 46 Stat. 691, as amended; 19 U.S.C. 1311) **[TD 55570.]**

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

(a) Except cigars manufactured in bond and supplies for vessels, no articles or materials received into a bonded manufacturing warehouse or articles manufactured therefrom shall be withdrawn or removed therefrom except for direct exportation or transportation and exportation in bond to a foreign country. The exportation or shipment shall in every case be under the supervision of a Customs officer.[18] **[TD 52041.]**

(b) The coverings or containers of imported articles or materials, whether or not subject to duty apart from their contents, are not "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, and need not be exported, but may be withdrawn from the warehouse for consumption under Customs Form 7505 upon payment of the duties applicable to such coverings or containers in their condition as withdrawn. **[TD 51685.]**

(c) Labels, coverings, and empty containers imported to be used in putting up the manufactured articles, if subject to duty or tax, constitute "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, but may be withdrawn for consumption upon payment of all applicable duties and taxes.

(d) When waste or a byproduct is withdrawn for consumption, Customs Form 7505 shall be used, modified as necessary and describing in detail the waste or byproduct and the imported material from which it was produced. Such waste or byproduct shall be appraised at its wholesale value at the time of withdrawal in the principal markets of the country from which the material was imported, determined in accordance with the provisions of section 402, Tariff Act of 1930, as amended. Upon payment of the duty, the withdrawal permit shall be issued for delivery and a proper credit given upon the manufacturer's bond. **[TDs 30458, 30516.]**

(e) Each withdrawal covering the items which are permitted to be withdrawn for consumption shall contain a summary statement thereon, showing for each class of merchandise the quantity on hand in the account, the quantity covered by the withdrawal presented, and the quantity remaining in the warehouse account, if any. **[TD 53792.]**

(f) The general procedure covering warehouse withdrawals for exportation shall be followed in the case of articles withdrawn for exportation from a bonded manufacturing warehouse, except that in the case of flour each copy of Customs Form 7512 shall bear the following legend: **[TDs 48999, 49435.]**

Produced from wheat imported after September 15, 1930, without payment of duty thereon. Must not be exported to Cuba without permission from the district director at the port of withdrawal.[19]

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[18] "* * * Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port.* * *" (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

[19] "* * * No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after the date of the enactment of this Act, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect to such flour in the country which it is to be exported * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

(g)(1) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), for the sole purpose of immediate export, except for distilled spirits which may be withdrawn under the provisions of section 311 for transportation and delivery to any bonded storage warehouse for the sole purpose of immediate export, or may be withdrawn pursuant to section 309(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1309(a)). Such withdrawal shall be effected on Customs Form 7512, as provided for in § 144.36 of this chapter. A rewarehouse entry shall be made in accordance with § 144.34(b) of this chapter, supported by a bond on Customs Form 7555 in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duties on the merchandise (including any taxes imposed thereon which are required by law to be treated as duty imposed by the Tariff Act of 1930), plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director of Customs. The recital clause of such bond shall be modified to show that the merchandise is the product of a bonded manufacturing warehouse, Class 6, and that it has been rewarehoused for the sole purpose of immediate export or withdrawal pursuant to section 309(a) of the Tariff Act of 1930, as amended. The following new condition shall be added to the warehouse entry bond on Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be exported or withdrawn in accordance with the provisions of section 311 or 309(a), Tariff Act of 1930, as amended, in the manner prescribed by the regulations; or, in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so exported or withdrawn, plus the amount of any internal revenue tax assessable thereon." **[TDs 52265, 53792, 55653, 73-62, 73-175, 80-271.]**

(2) Domestic distilled spirits transferred from a Customs-bonded manufacturing warehouse, Class 6, to a Customs-bonded storage warehouse, Class 2 or 3, in accordance with section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), shall be rewarehoused in accordance with the procedure for withdrawal and rewarehousing set forth in subparagraph (1) of this section. For other regulations concerning the entry and withdrawal of distilled spirits, see section 144.15 of this chapter. **[TDs 73-62, 73-175, 78-298, 80-271.]**

(h) No merchandise manufactured in a bonded manufacturing warehouse may be withdrawn by a person other than the manufacturer either from the manufacturing warehouse or from a warehouse where the merchandise is stored awaiting direct exportation, unless an authorization of the manufacturer is endorsed on the face of the withdrawal, or the manufacturer previously and in writing has transferred the right of withdrawal. **[TD 48786.]**

(i) When spirits and wines are withdrawn for shipment to Puerto Rico under section 311, Tariff Act of 1930, as amended, the procedure outlined in § 7.1 of this chapter shall be followed.

(j) As proof of manufacture and exportation, the manufacturer shall file in the case of each transaction or period of manufacture a statement verified by the Customs warehouse officer in charge of the warehouse, showing the date and number of the bond, the quantity and identity of the dutiable or taxable merchandise used, and the quantity and description of the articles into which it has been manufactured, together with the quantities of any byproducts and waste produced. In the case of articles manufactured with the use of distilled spirits, the statement shall also be verified by the foreman or chemist of the factory and shall show the number of packages of spirits used, the marks and numbers, the number of wine, proof and taxable gallons, and the degree of proof. **[TDs 53268, 53336.]**

(k) The same proofs of exportation shall be required as in the case of other warehouse withdrawals for exportation.

(l) When the fact of exportation of all the products has been established by such proofs and any byproducts and waste have been exported or released for consumption, the bond given by the manufacturer, or the charges against his general bond, shall be canceled.

(m) Shortage, irregular delivery, and nondelivery occurring with respect to merchandise withdrawn from bonded manufacturing warehouse while it is under transportation in bond shall be charged against the bonded carrier. (Sec. 311, 624, 46 Stat. 691, as amended, 759; 19 U.S.C. 66, 1311, 1624) **[TD 47222.]**

§ 19.16 Cigar-manufacturing warehouses.

(a) Tobacco to be used in the manufacture of cigars in bond under the provisions of section 311, Tariff Act of 1930, as amended,[21] shall be entered for warehouse but may be transferred directly from the importing vessel or from a bonded warehouse of class 2 or 3 into a bonded manufacturing warehouse of class 6 and stored in separate compartments therein under Customs locks pending its withdrawal for use in the manufacture of cigars. Before any such tobacco may be transferred to the manufacturing department in such premises for use in the manufacture of cigars, it shall be withdrawn in original packages and duty paid thereon in the same manner and under the same regulations as govern the withdrawal of merchandise for consumption from warehouses of class 3. When tax-paid cigars are returned to the manufacturing department of a cigar manufacturing warehouse from which withdrawn, in accordance § 275.172 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.172), they shall be accounted for properly and shall not be released for consumption except upon compliance with all applicable regulations. Customs shall keep a record of all cigars so returned to the manufacturing department, together with a copy of the schedule on Alcohol, Tobacco and Firearms form 3069 (5200.7). The cigars so returned shall be verified by the Customs officer against the schedule which shall be certified by him as to the cigars returned, and the original and one copy returned to the taxpayer who returned the cigars. **[TD 55472, 78-329.]**

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[21] "* * * cigars manufactured in whole, of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture. * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

(b) Cigars manufactured in a bonded warehouse for home consumption shall not be removed therefrom until Customs stamps have been affixed to each package containing such cigars. Upon removal of cigars, the Customs officer shall make appropriate entry in his records of the quantity and class of such cigars. **[TDs 33783, 54393, 54875, 54934, 55472.]**

(c) A record of all tobacco received in a bonded manufacturing warehouse and delivered from storage compartments to the manufacturing department shall be kept on Customs Form 5215. **[TDs 33783, 34580 (p. 1082).]**

(d) Cigars may be exported from a bonded manufacturing warehouse without payment of duty or internal-revenue tax under the laws and regulations governing the withdrawal of merchandise from other warehouses of class 6.

(e) Before removal of cigars from the bonded premises for consumption, there shall be affixed to each box thereof the stamp provided by the Government indicating their character according to the method of manufacture origin of tobacco, place of manufacture, and that they were manufactured in bond. These stamps shall be sold to the manufacturer by the district director. The manufacturer will be advised of the price by the district director upon request. **[TDs 34815, 34923, 52500, 52872, 53595, 54197, 54546.]**

(f) Before the removal of cigars from the bonded premises, the Customs stamps shall be canceled in a legible manner by means of a rubber stamp or perforation showing the name of the manufacturer, the place where the factory is located, and the date of cancellation. **[TDs 34454, 54393.]**

(g) Before removal from the bonded premises for consumption, each package of cigars must be marked by legibly imprinting or branding on the package, or on a label securely affixed to the package, the statement (for Customs purposes) "Made in No. ———, Customs bonded manufacturing warehouse, class 6"; and as required in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275), a statement of the quantity and classification or class designation (for large cigars) of the cigars contained in each package. **[TDs 34454, 36187, 54393, 54875, 55472, 78-329.]**

(1) Upon withdrawal (release) for consumption of cigars subject to internal revenue tax, the manufacturer or proprietor of the class 6 warehouse shall pay the applicable tax to Customs by return, as provided in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275). The manufacturer or proprietor shall file two copies of the return on an appropriately modified Customs form 7505 (yellow) and one copy of Customs form 7505-A with the district director of Customs of the port where the warehouse is located. One return shall cover all cigars withdrawn (released) on any one day and shall be filed on the first business day after the date of withdrawal (release). The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond, Customs form 3583.

(2) The taxpayer shall prepare the return to show, for tax purposes, the quantity and kind of cigars, the applicable rate of tax, and the amount of tax (see 27 CFR 275.81). The taxpayer, or his authorized agent under whose bond release is made, shall sign the return. The return will not be required to duplicate the information required for duty purposes under subpart D of part 144 of this chapter. One copy of the Customs form 7505 (yellow) shall be returned to the taxpayer, and one copy shall be retained by Customs. When accepted, the return shall be treated as an entry and liquidated upon payment of the taxes on the cigars and charges, if any.

(h) Proprietors of premises bonded for the manufacture of cigars may remove scraps, cuttings, and clippings of tobacco produced in the premises for transfer to cigar or tobacco manufacturers operating under the internal-revenue laws. The proprietor shall maintain a record for 5 years from the date of each transfer of scraps, cuttings and clippings. The application and permit for the transfer shall be in the following form: **[TDs 34204, 53336, 79-159.]**

APPLICATION AND PERMIT FOR TRANSFER OF

SCRAPS, CUTTINGS, AND CLIPPINGS

Port of ——————————.
——————, 19———.

The District Director:

——————————

Sir: Application is hereby made to transfer ———————— pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to ————————, factory No. ——————, district ————, State of ——————.

____

Proprietor of Bonded Manufacturing Warehouse, Class 6

____

Port of ——————————,
——————, 19———.

The above application is hereby granted. The Customs warehouse officer shall deliver the material stated and make his report below.

____
District Director

____

Port of ——————————,
——————, 19———.

I hereby certify that —————— pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid, have been delivered by me from the bonded manufacturing warehouse, class 6, of ————————for transfer to ————————.

____
Customs warehouse officer

(Sec. 311, 46 Stat. 691, as amended, secs. 5723, 5752, 68A Stat. 713, 716; 19 U.S.C. 1311, 26 U.S.C. 5723, 5752)

Smelting and Refining Warehouses

§ 19.17 Application to establish warehouse; bond.

(a) Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff

Act of 1930, as amended,[22] to reduce the metal content thereof to an unwrought metal, or metal in the form of oxides or other compounds which are obtained directly from the treatment of the dutiable materials provided for in schedule 6, part 1 or 2, Tariff Schedules of the United States, shall be made by the manufacturer, through the district director of the district in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein, accompanied by the fee prescribed by § 24.12(a)(1)(iii) of this chapter. If two or more plants are to be covered by the smelting and refining bond the application may be filed with any district director of a district in which smelting and refining operations are to be conducted, accompanied by a copy of such application for each district director in whose district the smelting and refining warehouse or warehouses are proposed to be established, and the prescribed fee for each warehouse. On receipt of the original application or a copy thereof, each district director shall make a survey of the premises in his own district and submit his recommendations to Headquarters, U.S. Customs Service. **[TDs 41494, 52395, 55974.]**

(b) Upon 10 days' notice from the district director, the manufacturer shall be required to renew his bond and if he fails to do so no further permits shall be granted for removals from or transfers to his warehouse.

(c) At the request of the proprietor the bonded status of the warehouse may be discontinued at any time, provided Headquarters, U.S. Customs Service approves such discontinuance and the proprietor complies with directions of the district director with respect to such merchandise as may remain in the warehouse.

(d) Upon the importation at any seaboard or frontier port of the United States of metal-bearing materials in any form intended for a bonded smelting or refining warehouse situated at some other port of entry, they may be forwarded under an immediate transportation without appraisement entry. **[TDs 37775, 55974.]**

(e) Upon the arrival of imported metal-bearing materials in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, they shall be entered for warehouse. A bond on Customs Form 7555 shall be filed with each warehouse entry unless a blanket smelting and refining bond in the form authorized in T.D. 72-244, has been filed. The district director shall thereupon issue a permit to the inspector to send such metal-bearing materials from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry. **[TDs 40651, 53399, 55974, 72-244, 74-227.]**

(f) Bonded metal-bearing materials shall be kept separate and distinct from nonbonded material until they have been sampled and weighed. **[TD 55974, 74-297.]**

(g) Where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall statement shall be filed by the principal of the warehouse with Headquarters, U.S. Customs Service and each district director involved by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants. Each district director in whose district a plant or plants are located shall be responsible for the determination as to the correctness of the inventory report insofar as the amounts held at plants under his jurisdiction are concerned. All discrepancies which cannot be reconciled by the district director shall be reported to

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[22] "* * * Metal-bearing materials may be entered into a bonded smelting or refining warehouse without the payment of duties thereon and there smelted or refined, or both, together with metal-bearing materials of domestic or foreign origin. Upon arrival of imported metal-bearing materials at the warehouse they shall be sampled according to commercial methods and assayed, both under customs supervision. The bond shall be charged with a sum equal in amount to the duties which would be payable on such metal-bearing material in their condition as imported if entered for consumption, and the bond charge shall be adjusted to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond.

"(b) The several charges against such bond may be canceled in whole or in part—

"(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

"(2) upon payment of duties on the dutiable quantity of metal contained in the imported metal-bearing materials, or

"(3) upon the transfer of the bond charges to another bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

"(4) upon the transfer of the bond charges to a bonded customs warehouse other than a bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), and upon withdrawal from such other warehouse for exportation or domestic consumption the provisions of this section shall apply, or

"(5) upon the transfer to another bonded smelting or refining warehouse without physical shipment of metal of bond charges representing a quantity of dutiable metal contained in imported metal-bearing materials less wastage provided for in subsection (c) of the plant of initial treatment of such materials provided there is on hand at the warehouse to which the transfer is made sufficient like metal in any form to satisfy the transferred bond charges.

"(c) For purposes of paragraphs (1), (3), (4), and (5) of subsection (b), due allowances shall be made for wastage of metals other than copper, lead, and zinc, as ascertained from time to time by the Secretary of the Treasury.

"(d) Upon the exportation of a product of smelting or refining other than refined metal the bond shall be credited with a quantity of metal equivalent to the quantity of metal contained in the product exported less the proportionate part of the deductions allowed for losses in determination of the bond charge being canceled that would not ordinarily be sustained in production of the specific product exported as ascertained from time to time by the Secretary of the Treasury.

"(e) Two or more smelting or refining warehouses may be included under one general bond and the quantities of each kind of metal subject to duty on hand at all of such warehouses may be aggregated to satisfy the bond obligation.

"(f) For purposes of this section—

"(1) The term 'metal-bearing materials' means metal-bearing ores and other metal-bearing materials provided for in schedule 6, part 1, of the Tariff Schedules of the United States, 'metal waste and scrap' and 'un- wrought metal' to be smelted or refined provided for in schedule 6, part 2, of such schedules, and metal compounds to be processed for the recovery of their metal content;

"(2) the term 'smelting or refining' embraces only pyrometallurgical, hydrometallurgical, and electrometallurgical, chemical, or other processes—

"(A) for the treatment of metal-bearing materials to reduce the metal content thereof to a metallic state in the course of recovering it in forms which if imported would be classifiable in part 2 of schedule 6 as 'un- wrought metal', or in the form of oxides or other compounds which are obtained directly from the treatment of materials provided for in part 1 of schedule 6, and

"(B) for the treatment of unwrought metal or metal waste and scrap to remove impurities or undesired components; and

"(3) the term 'product of smelting or refining' means metals or metal-bearing materials resulting directly from smelting or refining processes, but does not include metal-bearing ores as defined in part 1 of schedule 6.

"(g) Labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer. The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section." (Tariff Act of 1930, sec. 312, as amended; 19 U.S.C. 1312.)

Headquarters, U.S. Customs Service. If Headquarters finds that the aggregate quantity of dutiable metal at the several plants does not equal the quantity charged against the blanket bond, duties shall be collected for the quantity determined to be deficient. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TDs 55974, 74–247.]**

§ 19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.

(a) Except where absolute deductions have been allowed in the liquidation of the entry for losses on copper, lead, and zinc content of metal-bearing materials, pursuant to schedule 6, part 1, headnote 4(b), Tariff Schedules of the United States (see § 151.55 of this chapter), the actual percentage of losses by weight shall be allowed if more than 90 percent by weight of: (1) The zinc content initially treated at any lead plant, (2) the copper content of the imported materials treated at any zinc plant, or (3) the copper, lead, or zinc content of the imported material initially treated at any plant other than a copper, lead, or zinc plant is lost in processing such materials. Such actual percentage of losses by weight of the metal content shall be that shown by the manufacturer's annual statement. Such losses shall be applied in the liquidation of the entry to materials entered for consumption or for warehouse, during a 12-month period beginning on the first day of the month nearest to 90 days after the close of the manufacturer's fiscal year immediately preceding such 90-day period, provided the importer makes claim therefor in writing at the time the merchandise is entered. No further wastage shall be allowed. The full dutiable contents of such metal-bearing materials, as ascertained by commercial assay made by the Government chemists, lese the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both), shall constitute the quantity of dutiable metal which must be either exported, duty-paid, or transferred to another bonded warehouse in order to secure the cancellation of the charge made against the proprietor's bond as shown by the warehouse or rewarehouse entry account. **[TDs 35885, 38367, 41494, 45663, 47404, 52395, 52626, 53336, 53399, 53792, 54933, 55228, 55974, 73–175.]**

(b) Upon the withdrawal for consumption of metal so smelted or refined, or both, duty shall be collected thereon without the allowance for wastage, except where the metal was transferred to a bonded Customs warehouse other than a smelting warehouse and withdrawn therefrom for consumption. However, duty-paid warehouse withdrawals for consumption may be filed with regard to metal which will be physically withdrawn in the form of smelted or refined products whether at the time of the filing of the withdrawal papers the dutiable metal covered by the bond charge being cancelled by the withdrawal is in the form of ores, concentrates, crude metals, or intermediate products. If the warehouse withdrawal for consumption covers a product which does not sustain the full wastage allowable (see § 19.22) prior to being physically released from Customs custody, a proportionate part only of such wastage may be allowed. The warehouse withdrawal and delivery permit shall state the estimated amount of the dutiable metal contained in the products, and the warehouse withdrawal shall specify the applicable wastage. A quantity of dutiable metal equivalent to the smelted or refined products covered by each withdrawal for consumption must be actually on hand at the plant or plants covered by the bond at the time of filing the withdrawals; but neither the actual ability to withdraw smelted or refined products from the warehouse nor the actual physical condition described in the withdrawal will be required at the time of filing the withdrawal. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TD 55974, 82–89.]**

§ 19.19 Manufacturers' records; annual statement.

(a) Every manufacturer engaged in smelting or refining, or both, shall immediately notify the district director of Customs for the district in which the plant is located of any material change in the character of the metal-bearing materials smelted or refined and of any change in the methods of smelting or refining. Each plant for which any of the deductions provided for in schedule 6, part 1, headnote 4, Tariff Schedules of the United States, is to be claimed shall maintain complete smelting and refining records showing the receipts and disposition of each shipment of materials received in the plant. If losses are to be claimed under paragraph (c) of said headnote, a record shall be kept from which the annual statement described in paragraph (b) of this section shall be prepared. These records shall be retained for a period of not less than 5 years. In the case of records forming the basis of such an annual statement, the period for retention shall run from the date of the related annual statement. All such records shall be made available to the district director of Customs for such inspection and verification as he may deem advisable. **[TDs 41494, 54442, 54933, 55974, 67–139.]**

(b) Every manufacturer engaged in smelting or refining, or both, who pursuant to paragraph (d) of headnote 4, part 1, schedule 6, Tariff Schedules of the United States, elects to make claim for losses under paragraph (c) of that headnote, shall file with the district director of Customs for the district in which the plant is located an annual statement of losses for the fiscal year for the plant involved not later than 60 days after the termiantion of that fiscal year. No specific form is prescribed in which such statement shall be prepared. As basic information, the statement shall show the quantities of metal-bearing materials on hand at the beginning of the period and the dutiable contents thereof;[23] the quantities of metal-bearing materials received during the period and the dutiable contents thereof; the total metal-bearing materials to be accounted for and the dutiable contents thereof; the quantities of metal-bearing materials on hand at the end of the period and the dutiable contents thereof; and the quantities of metal-bearing materials worked during the period and the dutiable contents thereof. The statement of the quantity of metal-bearing materials worked during the period shall show the quantity of foreign material and the quantity of domestic material put in process during the smelting operations. The statement shall contain such further information concerning the quantities and kinds of metals and intermediary products produced at the plant as will show the wastage sustained in the smelting and refining operation.

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[23] By "dutiable contents" is meant the quantity of each metal of a kind subject to duty contained in the material treated. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.20 Withdrawal of products from bonded smelting or refining warehouses.

(a) *For exportation.* The general procedure governing warehouse withdrawals for exportation shall be followed in the case of the withdrawal for exportation of dutiable metal from a bonded smelting or refining warehouse. **[TDs 41494, 53792, 55974.]**

(b) *For transfer to another bonded warehouse.* (1) Withdrawal for transfer to another bonded warehouse shall be at the risk and expense of the applicant, and the general regulations governing the transfer of bonded merchandise from one warehouse to another or the transfer of imported materials from a bonded storage warehouse to a bonded manufacturing warehouse shall be followed so far as applicable.

(2) In the case of transportation to another port, the transportation entry shall show the quantity of metal withdrawn the wastage applicable thereto, and the imported material from which such metal was produced, together with any dutiable metal charged on entry. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.21 Smelting and refining in separate establishments.

(a) If the operations of smelting and refining are not carried on in the same establishment, the smelted and unrefined products obtained from the smelting of imported materials in a bonded smelting warehouse may be removed therefrom for shipment to a bonded refining warehouse located at the same or another port under the general procedure for transfer from one bonded warehouse to another. **[TDs 41494, 52626.]**

(b) When the transfer is to a bonded refining warehouse located at another port, the smelted and unrefined products or bullion obtained from the smelting of the imported material shall be weighed, sampled, and assayed before withdrawal, the sampling to be performed under Government supervision in accordance with the commercial practice in effect at the plant.

(c) The withdrawal for transportation shall show the gross weight of the smelted and unrefined products withdrawn, the weight of the dutiable metal contained therein, the wastage applicable thereto and the duties properly chargeable on the withdrawn products as shown by the import entry. **[TDs 34280, 55974.]**

(d) The rewarehouse entry covering the smelted and unrefined products at the bonded refining warehouse to which they are transferred shall be made out in accordance with the weights and duties shown on the withdrawal for transportation.

(e) Upon withdrawal of the metal from the bonded refining warehouse for export, the warehouse account of the refining warehouse shall be credited with the amount of metal so withdrawn, plus the refining wastage prescribed for said refining warehouse, plus the smelting wastage prescribed for the bonded smelting warehouse in which the smelted and unrefined products were produced, together with the amount of any dutiable metals entirely lost in the smelting or refining, or both. However, when the metal is withdrawn for consumption, duty shall be collected on an amount of metal-bearing materials in their condition as imported equivalent to that from which such metal would be producible. No allowance for either smelting or refining wastage shall be permitted, except where the metal is withdrawn from a Customs warehouse other than a bonded smelting and refining warehouse. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TD 55974.]**

§ 19.22 Withdrawal of metal refined in part from imported crude metal and in part from crude metal produced from imported materials.

Upon withdrawal for exportation of metal from a bonded warehouse engaged in refining, or smelting and refining, part of which metal was obtained from imported crude metal and part from crude metal produced by smelting imported materials, the warehouse account shall be credited with the quantity of metal so withdrawn, plus (a) the refining wastage allowance prescribed for that establishment, and (b) the smelting wastage allowance prescribed for the establishment in which the imported materials were smelted, and (c) any dutiable metals shown on the warehouse entry or the rewarehouse entry filed at the first-mentioned warehouse which have been lost and are attributable to the exported product. However, upon withdrawal of such refined metal for consumption, no allowance shall be made for wastage except where the withdrawal is made from a bonded Customs warehouse other than a bonded smelting and refining warehouse. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TDs 41494, 52626, 53399, 55974.]**

§ 19.23 Withdrawal for exportation from one port to be credited on warehouse entry account at another port.

On exportation of metal pursuant to the provisions of section 312(b)(1), Tariff Act of 1930, as amended,[24] the general procedure covering warehouse withdrawals for exportation shall be followed. The proprietor of the plant from which the withdrawal is made shall prepare a sufficient number of copies of withdrawals on Customs Form 7512, in addition to any other copies required by the regulations, to enable the district director at the port of withdrawal to forward a copy to the district director for each district where credit is to be applied. Such withdrawals shall designate the plant or plants which are to receive the credit, shall specify the warehouse entry number or numbers to which the credit is to be applied, and shall state the quantity of dutiable metal which is to be applied to each warehouse entry specified, and when any of the credits specified represent the last withdrawal against a particular warehouse entry, the words "final withdrawal" shall be shown on the withdrawal. When two or more plants in a given district are designated to receive credit, sufficient copies of the withdrawals shall be prepared to cover each such plant and entry. If at the time of withdrawal the warehouse proprietor does not know the plants or warehouse entry numbers which are to be credited with the withdrawal, or the metallic content of the dutiable metal being exported, the preparation of the before-mentioned copies of Customs Form 7512 may be postponed for a period of not longer than 30 days from the date of the movement of the dutiable metal from the plant. In such cases, a so-called memorandum withdrawal, in the number of copies provided for in § 144.37 of this chapter, may be used in the first instance for the purpose of obtaining the required Customs record of the exportation of the dutiable metal under Customs supervision. All memorandum withdrawals shall be conspicuously endorsed "Memorandum Withdrawal."

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[24] "(b) The several charges against such bonds may be cancelled in whole or in part—

"(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c) * * *" (Tariff Act of 1930, sec. 312(b)(1) as amended; 19 U.S.C. 1312.)

(Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TDs 41494, 51218, 53792, 55974, 73-175.]**

§ 19.24 Theoretical transfer without physical shipment of dutiable metal.

(a) Transfer may be made from one port of entry to another by a withdrawal for transportation and rewarehouse executed in regular form without physical shipment of the metal, provided enough like metal in any form is on hand at the establishment to which the theoretical transfer is made to satisfy the new bond obligations. **[TDs 41021, 50267, 55974.]**

(b) The wastage allowance established for the plant from which the original withdrawal for transportation was made shall be shown on the transfer withdrawal and set up as a part of the charge against the bond at the plant to which the metal was theoretically transferred. Such wastage shall govern and be the basis for allowance when metal is withdrawn from the plant where the theoretical rewarehousing was effect (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312)

§ 19.25 Credit to be applied under various forms of withdrawals.

(a) The warehouse entry account of the plant designated in the withdrawal to receive credit for the exportation shall be credited with the following: **[TDs 53792, 55974.]**

(1) The quantity of dutiable metal exported.

(2) The wastage in effect on the date of entry at the plant of initial treatment of such materials.

(3) The proportion of any other dutiable metals in the importation being credited which were lost at the said plant in the production of a quantity of dutiable metal equal to that exported.

(b) If credit is being applied to a charge set up by a theoretical transfer under § 19.24 at the plant designated in the withdrawal to receive the credit, the wastages to be applied shall be those set up at such plant in connection with the theoretical transfer, irrespective of the date of the withdrawal. **[TD 55974.]**

(c) On the transfer of dutiable metal to a bonded storage warehouse, credit shall be applied at the plant designated in the withdrawal to receive the credit in the manner provided for in paragraph (a) of this section with respect to withdrawals for exportation. The charge so credited at the plant shall be set up on the warehouse entry account of the storage warehouse to which the dutiable metal has been transferred. In the case of the withdrawal of dutiable metal for transfer to a bonded manufacturing warehouse, credit shall be applied in the same manner at the plant designated in the withdrawal to receive the credit, but the charge set upon the warehouse entry account of the bonded manufacturing warehouse shall be limited to the quantity of dutiable metal transferred to such warehouse. (Sec. 312, 46 Stat. 692, as amended; 19 U.S.C. 1312) **[TDs 53792, 55974.]**

Space Bonded for the Storage of Wheat

§ 19.29 Sealing of bins or other bonded space.

The outlets to all bins or other space bonded for the storage of imported wheat shall be sealed by Customs officers by affixing Customs locks or Customs strap seals to the rope or chain which controls the gear mechanism for opening the outlets, or such other method as will effectively prevent the removal of the wheat from, or access to the wheat in, the bonded space except under Customs supervision. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556) **[TD 53759, 67-281.]**

§ 19.30 Domestic wheat not to be allowed in bonded space.

The presence of domestic wheat in space bonded for the storage of imported wheat shall not be permitted. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.31 Bulk wheat of different classes and grades not to be commingled in storage.

All wheat shall be stored by class and grade according to the Official Grain Standards of the United States or the official standards of the Canadian Board of Grain Commissioners, in bins, compartments, or other enclosed spaces identified by clearly distinguishable insignia securely affixed thereto, so as tity of the wheat. There shall be no mixing or commingling of different classes or grades of wheat in the same bin, battery of bins, or other bonded space. If the wheat is stored in bags or other transportation containers, such bags or containers shall be so marked and so placed in the warehouse that the identity of the wheat will not be lost while in storage, to permit easy access to all lots, and to facilitate inspecting, sampling, and the identification of each lot. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

Cross Reference: For regulations respecting Official Grain Standards of the United States, see 7 CFR, Part 26.

§ 19.32 Wheat manipulation; reconditioning.

(a) The mixing, blending, or commingling of imported wheat and domestic wheat, or of imported wheat of different classes and grades, as an incident of transportation or as an incident of exportation under transportation and exportation entries, direct export entries, or withdrawals for exportation shall not be permitted. Applications for permission to manipulate wheat under the provisions of section 562, Tariff Act of 1930, as amended, shall be approved only after the concurrence of all interested Federal agencies has been furnished by the applicant.

(b) Where it is found that elevating, screening, blowing, fumigating, or drying of the wheat is essential to keep it in condition, the proprietor of the warehouse shall submit an application in writing to the district director. All such operations shall be performed under Customs supervision adequate to preclude unauthorized access to the wheat. (Secs. 555, 556, 562, 46 Stat. 743, 745, as amended; 19 U.S.C. 1555, 1556, 1562)

§ 19.33 General order; transportation in bond.

The provisions of §§ 19.29 through 19.32 shall be applicable to those parts of any premises in which imported wheat is stored in a general-order status, or stored pending exportation under an entry for exportation or for transportation and exportation. (Secs. 555, 556, 46 Stat. 743; 19 U.S.C. 1555, 1556)

§ 19.34 Customs supervision.

District directors shall exercise such supervision and control over the transactions covered by §§ 19.29 through 19.32 as will insure that there will be no unauthorized access to the imported wheat and no unauthorized mixing, blending, or commingling of such imported wheat. Importers, exporters, proprietors of Customs bonded warehouses, bonded common carriers, and others handling imported wheat in continuous Customs custody shall maintian such records as will enable Customs officers to verify the handling to which the imported wheat has been subjected, and to establish whether there has been a proper accounting to Customs for any increase in the quantity of the wheat or shortages resulting from shrinkage or other factors. These records shall be retained for a period of 5 years from the date of the transaction. District directors shall from time to time request the supervising Customs agent for the district concerned to examine such records of importers, exporters, warehouse proprietors, bonded common carriers, and others handling such wheat in continuous Customs custody as may be deemed necessary to ascertain whether there has been any failure to comply with the applicable Customs laws and regulations. (Sec. 556, 46 Stat. 743, sec. 646, 67 Stat. 520; 19 U.S.C. 1556, 1646a) **[TDs 54442, 79-159.]**

Container Stations

§ 19.40 Establishment of container stations.

A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format: **[TD 72-68.]**

Port of ————
No. ———

United States Customs Service

containerized cargo bond (term)

Know All Men By These Presents:

That:[1] ——————, of ——————, as principal, and[1] ——————of ——————, and ———— —— of ——————, as sureties, are held and firmly bound unto the United States of America in the sum of ———— —— dollars ($———), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ———day of ————, 19——.

Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the ————, for transportation to the ———— terminal(s) at ———— for a period beginning on the ——— day of ————, 19——, and ending on the ———day of ————, 19——, both days inclusive; and

Whereas, the above-bounden principal has requested, or will request, the assignment of Customs officers or employees to overtime duty at night or on Sunday or a holiday pursuant to the provisions of the Tariff Act of 1930, as amended, the Act of February 13, 1911, as amended, or any other act, or acts and regulations relating thereto, in effect at the time of such duty, on behalf of the herein referred to containers, and the merchandise therein;

Now, Therefore, the Condition of This Obligation is Such That—

(1) If the above-bounden principal shall pay such sums as are chargeable under law and regulations for any services as may be performed for said containers and the merchandise therein by Customs officers or employees and shall promptly pay any duties, charges, exactions, penalties, or other sums found legally due the United States by said principal on account of said containers and the merchandise therein;

(2) And if the above-bounden principal shall exonerate and hold harmless the United States and its officers from, or on account of, any risk, loss, or expense of any kind or description which might occur or be occasioned by reason of the granting of any special license to discharge or take on such merchandise in said containers at night or on Sunday or holiday, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the above-bounden principal, by reason of the granting of any special license;

(3) And if the principal shall make prompt report of arrival of the containers and the merchandise therein by delivery of the manifest, and permit to transfer, to the district director or other proper customs officer to whom the containers and the merchandise therein are consigned in said manifest or permit to transfer, or by other notice satisfactory to the district director;

(4) And if the said principal shall, in the event of failure to comply with any or all of the conditions referred to in this instrument, pay to the United States as liquidated damages an amount equal to the value of the nondutiable merchandise with respect to which there shall have been default, the damages on any one

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[1] If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

shipment not to exceed $500, and shall pay an amount equal to the duties on such dutiable merchandise as may be involved in the default (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise whether free or dutiable, together with the rate and amount of duty and tax, shall also be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry); provided that when delivery shall have been made of any dutiable merchandise in the containers to the ultimate consignee, owner, or other person without permit or release having been issued by the district director or other proper officer of the Customs, the principal shall pay, in addition to the duties on such merchandise a sum equal to 25 per centum of the duties on the merchandise so delivered; and shall pay any internal revenue taxes or other taxes accruing to the United States on the merchandise which is the subject of the default together with all costs, charges, penalties, and expenses caused by the failure to comply with the conditions of this obligation;

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned terminal(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and exactions accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

(6) And if the said principal shall pay the necessary expense of such seals, locks, and other proper fastenings as may be prescribed and required by the district director for securing the transportation and safekeeping or storage of such merchandise contained in the containers as may be placed in the custody of the principal, in such terminals, stations, buildings, rooms, warehouses, elevators, safes, trunks, pouches, or other things for, and places of, keeping or storage, as may be authorized and used by the principal for that purpose;

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) (Address)

(Name) (Address)

[seal]

(Principal)

(Name) (Address)

(Name) (Address)

[seal]

(Surety name and number)

(Name) (Address)

(Name) (Address)

[seal]

(Surety name and number)

(Secs. 450, 499, 623, 46 Stat. 715, as amended, 728, as amended, 759, as amended; 19 U.S.C. 1450, 1499, 1623)

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station prior to the filing of an entry therefor or the permitting thereof (see subpart A of Part 158 of this chapter) for the purpose of breaking bulk and redelivery of the cargo. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499) **[TD 72-68.]**

§ 19.42 Application for transfer of merchandise.

The container station operator may file an application for the transfer of a container intact to the station. The application shall be in duplicate in the following or substantially similar format: **[TD 72-68.]**

U.S. Customs Service

Application and permit to transfer containerized cargo to a container station

Date ———————

Application is made to transfer the containers and their contents listed below which arrived on —————— (Carrier) on —————(Date) at Pier ——— to the ——————(Container station)

An abstract of the carrier's manifest covering the containers by B/L No., marks, numbers, contents, consignee, etc., is attached hereto.

list of containers by marks and numbers only

(Signature of authorized agent of container station)

We concur: ______________________________
(Signature of agent of importing carrier)

Transfer Record

Delivered to ________________ (cartman), C.H.L. No. ____ in apparent good order and condition except as noted:

Truck No.	Container numbers	Date	Signature of inspector	Signature of cartman	Received signature container operator

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the discharging inspector at the place where the container is unladen, as designated by the district director. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499) **[TD 72-68.]**

§ 19.44 Importing carrier concurrence.

The importing carrier (who, with the operator, remains jointly and severally liable for the proper delivery of the merchandise until it is permitted in accordance with § 15.8 of this chapter) shall indicate its concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator. The importing carrier shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container. The importing carrier will be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator. (Sec. 448, 46 Stat. 714, as amended; 19 U.S.C. 1448) **[TD 72-68.]**

§ 19.45 Transfer of merchandise, approval and method.

Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. Except when the container station operator is moving the merchandise to his own station by his own vehicle, the merchandise may only be transferred to a container station by a bonded cartman or bonded carrier. The station operator, cartman or carrier shall receipt for the merchandise on both copies of the application. (R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 66, 1551, 1565, 1624) **[TDs 72-68, 74-54.]**

§ 19.46 Employee lists.

A permit shall not be granted to an operator to transfer a container or containers to a container station, if the operator, within 30 calendar days after the date of receipt of a written demand by the district director, does not furnish a written list of names, addresses, social security numbers, and dates and places of birth of persons employed by him in connection with the movement, receipt, storage or delivery of imported merchandise. Having furnished such a list, no new permit shall be issued to an operator who has not within 10 calendar days after the employment of any new personnel employed in connection with the movement, receipt, storage, or delivery of imported merchandise, advised the district director in writing of the names, addresses, social security numbers, and dates and places of birth of such new employees. The operator shall, within 10 calendar days, advise the district director if the employment of any employee is terminated. A person shall not be deemed to be employed by an operator if he is an officer or employee of an independent contractor engaged by the operator to move, receive, store, deliver, or otherwise handle imported merchandise. **[TD 72-68.]**

§ 19.47 Security.

The space to be used for the purposes of breaking bulk and delivering cargo shall be properly secured against access by unauthorized persons, including persons not on the list of current employees furnished to the district director by the container station operator, the principal on the bond, as required by § 19.46. A suitable working and office space for the use of Customs officers and employees performing functions in the area shall also be provided. **[TD 72-68.]**

§ 19.48 Suspension or revocation of the privilege of operating a container station; hearings.

(a) *Grounds for suspension or revocation.* The district director may revoke or suspend the privilege of operating a container station if: **[TDs 72-68, 73-286.]**

(1) The privilege was obtained through fraud or the misstatement of a material fact;

(2) The container station operator refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation of a container station;

(3) The container station operator or an officer of a corporation which has been granted the privilege of operating a container station is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The container station operator fails to retain merchandise which has been designated for examination;

(5) The container station operator does not provide secure facilities or properly safeguard merchandise within the container station;

(6) The container station operator fails to furnish a current list of names, addresses, and other information required by § 19.46; or

(7) The bond required by § 19.40 is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(b) *Notice and appeal.* The district director shall suspend or revoke the privilege of operating a container station by serving notice of the proposed action in writing upon the container station operator. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the container station operator unless he shall file with the district director a written notice of appeal. The container station operator may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate and shall set forth the response of the container station operator to the statement of the district director. The container station operator, in his notice of appeal, may request a hearing.

(c) *Hearing on appeal.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The container station operator shall be notified of the time and place of the hearing at least 5 days prior thereto. The container station operator may be represented by counsel at the revocation or suspension hearing. All testimony in the proceeding shall be subject to cross-examination. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the container station operator. At the conclusion of such proceeding or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of any hearing, to the Commissioner of Customs, together with his recommendation for final action. Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the container station operator may submit to the Commissioner of Customs, in writing, additional views and arguments on the basis of such record. If neither the container station operator nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs. The Commissioner shall thereafter render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the container station operator. (19 U.S.C. 1499, 1623)

§ 19.49 Entry of containerized merchandise.

Merchandise not entered within the lay order period, or extension thereof, shall be placed in general order. The importing carrier shall issue carrier's certificates for individual shipments in a container. Entries covering merchandise transferred to a container station shall clearly show that the merchandise is at the container station. (Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484) **[TD 72-68.]**

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE—Abolished; Incorporated into new Part 127

[TD 74-114]

PART 21—CARTAGE AND LIGHTERAGE—Abolished; Incorporated into new Part 125 [TD 73-140]

PART 22—DRAWBACK

Articles Manufactured or Produced Wholly or in Part From Imported or Substituted Merchandise

Sec.
22.1 Drawback allowance.
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Flavoring Extracts and Medicinal or Toilet Preparations (Including Prefumery) Manufactured From Domestic Tax-Paid Alcohol.

22.22 Drawback allowance.
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22.36 Drawback allowance.
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General Regulations Applicable to All Drawback Claims

22.41 Duties subject to drawback.
22.42 Merchandise sold to United States Government.
22.43 Verification of drawback claims.
22.44 Protests.
22.45 Signing of documents; powers of attorney.
22.46 Retention of records.

Authority: Secs. 313, 624, 46 Stat. 693, as amended, 759, sec. 101, 76 Stat. 72; 19 U.S.C. 1313, 1624, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14778, Dec. 31, 1963, unless otherwise noted.

Articles Manufactured or Produced Wholly or in Part From Imported or Substituted Merchandise

§ 22.1 Drawback allowance.

Drawback of duties shall be allowed as provided for in section 313, Tariff Act of 1930, as amended,[1] on articles manufactured or produced in the United States wholly or in part with the use of imported or substituted merchandise, on meats cured with imported salt, and on vessels and aircraft built and equipped in the United States for foreign account and ownership,[2] subject to compliance with the regulations in this part. **[TDs 52417, 52826, 52894, 54231, 54750.]**

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[1] "(a) *Articles made from imported merchandise.* Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or byproducts produced from wheat imported after ninety days after the date of the enactment of this act. * * *

"(b) *Substitution for drawback purposes.* If imported duty-paid merchandise and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

§ 22.2 Guantanamo Bay.

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes.[3] **[TD 79-276.]**

§ 22.3 Application for establishment of drawback rate.

(a) *General.*—Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application for the establishment of a rate of drawback. The application shall be made on Customs Form 4477 or in a substantially similar form and shall be filed with the district director at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the prescribed form. **[TDs 45185(2), 46412, 48490, 48524, 49639, 52002, 52037, 52894, 79-65.]**

(b) *Vessels or aircraft.*—In the case of a vessel or aircraft on which drawback is to be claimed under section 313(g), Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft.

(c) *Abandonment of applications.*—The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect with the Customs officer with whom the application was filed. An application shall be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application.

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates; expiration of drawback rates.

(a) Each manufacturer or producer shall keep records which will establish, as to all articles manufactured or produced for exportation with benefit of drawback, the date or inclusive dates of manufacture or production, the quantity and identity of the imported duty-paid merchandise or of articles manufactured or produced under drawback regulations (referred to hereafter in this part as drawback products) used, the quantity and description of the articles manufactured or produced, and the quantity of waste incurred. If claim for waste is waived, the manufacturer or producer shall keep records which will establish the quantity and identity of the imported duty-paid merchandise or drawback products appearing in the articles manufactured or produced, in which case records need not be kept of either the quantity of waste incurred or of the quantity imported duty-paid merchandise or drawback products used, unless such records are necessary to enable the manufacturer or producer to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles. When the waste has a value and the manufacturer or producer has not limited his claims to the quantity of imported duty-paid merchandise or drawback, products appearing in the articles, the records shall show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste in order that in the liquidation of the drawback entry the quantity of imported duty-paid merchandise or drawback products used may be reduced by the quantity thereof which the value of the waste will replace. The records of the manufacturer or producer shall also show the quantity, if any, of duty-free or domestic merchandise used when such records are necessary to the determination of the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing therein. In cases where two or more products result from the manipulation of the imported duty-paid merchandise, records shall be kept which will show the values of such products at the time of separation. An abstract of the records kept by the manufacturer or producer shall be filed with the drawback entry. **[TDs 48490, 53268, 79-65.]**

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[2] Section 313(g), Tariff Act of 1930, applies only to materials used in the original construction and equipment of the vessels or aircraft and not to materials used for alteration or repair. The term "foreign account and ownership" contemplates only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft shall, when completed, be owned and operated under the flag of a foreign country.

* * * * *

"(f) *Exportation of meats cured with imported salt.* Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than $100.

"(g) *Materials for construction and equipment of vessels built for foreigners.* The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

"(h) *Time limitation on exportation.* No drawback shall be allowed under the provisions of this section unless the completed article is exported within five years after importation of the imported merchandise.

"(i) *Regulations.* Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 309(b) of this Act shall be filed and completed, and the designation of the person to whom any refund or payment of drawback shall be made.

"(j) *Source of payment.* Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico." (Tariff Act of 1930, sec. 313, as amended; 19 U.S.C. 1313)

[3] There is no authority of law for the allowance of drawback of customs duty on articles manufactured or produced in the United States and shipped to Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, the island of Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island. **[TD 79-276.]**

(b) The imported duty-paid merchandise or drawback products shall be stored in a manner which will enable the manufacturer or producer to determine, in conjunction with his storage records, the import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers under which they were received, and to identify with respect to such import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers the imported duty-paid merchandise or drawback products used in the manufacture or production of the articles, and to establish whether such articles were exported within 5 years after the importation of the duty-paid merchandise. **[TDs 52041, 53336.]**

(c) The articles manufactured or produced shall be stored or marked in a manner which will preserve the identification established by means of the storage records and the records of manufacture or production.

(d) Each person required by § § 22.15 and 22.16(c) to certify to the delivery of imported merchandise or drawback products shall store such merchandise or products while they are in his possession and keep records which will enable him to show the quantity, identity, and description of such merchandise or products, the date on which they were received by him, the person from whom they were received, the date on which they were delivered by him to other persons, and the persons to whom such deliveries were made. These records shall be the basis of the certificates or endorsements required under § § 22.15 and 22.16(c). **[TD 52894.]**

(e) Where it appears to the satisfaction of Headquarters, U.S. Customs Service, or of the district director in appropriate cases, that it is impracticable for the manufacturer or producer to keep records of all the information required for the determination of the drawback which may accrue to the products manufactured or produced by him, complementary records covering the information not available to the manufacturer or producer may be kept by the persons in the United States for whose account the products are manufactured or produced, and abstracts of such records shall be filed with the drawback entry. **[TDs 52395, 53268, 54155, 55016.]**

(f) When identification is made against two or more lots of imported merchandise of different dutiable values or subject to different rates of duty, or against two or more lots of drawback products subject to different allowances of drawback, the drawback shall be based first upon the lot or lots of the lowest dutiable value, rate of duty, or drawback allowance, as the case may be, then upon the lot or lots of the next higher dutiable value, rate of duty, or drawback allowance, and so on from lower to higher until all the lots have been accounted for. The same principle shall apply in cases where the articles are commingled in storage after manufacture or production. If two or more lots of a fungible product are commingled in storage and quantities thereof are withdrawn for domestic consumption as well as for exportation with benefit of drawback, the withdrawals for domestic consumption shall be accounted for in the order in which the several lots of such product were placed in storage, exclusive of any lots in respect of which drawback has been allowed; and, in the case of the withdrawals for exportation, the drawback allowance thereon shall be based on the lot carrying the lowest allowance of drawback of any of the lots shown by the Customs records to be unaccounted for at the time of withdrawal.

(g) The builder of a vessel or aircraft upon which drawback is to be claimed under section 313(g), Tariff Act of 1930, shall keep the records provided for in this section so far as applicable. An abstract of such records shall be filed with the district director at the headquarters port of the district in which the vessel or aircraft is built in ample time prior to the first departure of the vessel or aircraft from the United States to enable that officer to have the abstract verified by examination of the vessel or aircraft and the builder's records pertaining thereto. **[TDs 52037, 53268.]**

(h) Each manufacturer or producer shall submit to the regional commissioner where his drawback entries will be liquidated a statement in duplicate describing the methods which he will follow and the records which he will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313(a), Tariff Act of 1930, and that the records of identification, manufacture, or production and storage prescribed in this section have been maintained. In the case of operations under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, and in the case of operations under any combination of section 313(a) with section 313 (b), (d), or (g), the statement in triplicate shall be submitted to the Commissioner of Customs. The statement shall contain an agreement to follow the methods and keep the records described therein with respect to all articles manufactured or produced for exportation with benefit of drawback. Provision for the use of duty-paid merchandise or drawback products, the manufacture or production of articles not specified in the application for the rate, or the use of factories not named therein may be included in the statement prepared as a result of such application. **[TDs 53268, 54155, 55016, 56288, 71-143, 75-44.]**

(i) If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. The procedure outlined in this and the preceding paragraph shall be followed, so far as applicable, when applications for amendments of drawback rates, or supplemental statements, schedules, or supplemental advisory schedules are filed in accordance with paragraph (o), (p), or (q) of this section. **[TDs 53268, 71-143.]**

(j) If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner in a case under section 313(a), Tariff Act of 1930, or Headquarters, U.S. Customs Service in a case under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, and in the case of any combination of section 313(a) with section 313 (b), (d), or (g), will issue the rate of drawback on the articles described in the statement. In cases under § 22.6, the procedure in paragraphs (a) and (b) of that section shall be followed. When the statement in a case under section 313(a), Tariff Act of 1930, shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed shall issue the rate, if that action is warranted. **[TDs 52395, 53268, 54155, 55016, 71-143.]**

(k) Each person who keeps complementary records as provided for in paragraph (e) of this section shall file a statement describing such records in accordance with the procedure prescribed for manufacturers and producers in paragraph (h) of this section. Such statement shall be subject to the provisions of paragraphs (i) and (j) of this section. **[TD 53268.]**

(l) Drawback entries may be filed covering articles exported on or after the date on which the application for establishment of the drawback rate was received by the district director, but such entries shall not be liquidated until the rate has been established or in cases under § 22.6 the statement has been approved. **[TDs 52002, 54155.]**

(m) When the rate has been established or the statement approved under § 22.6, drawback may be allowed on articles manufactured or produced in accordance therewith and exported on or after the effective date named therein provided all pertinent regulations have been complied with. **[TD 54155.]**

(n) [Reserved.] **[TDs 52002, 53268, 54155, 79-65]**

(o)(1) *Amendment of rates.*—When a manufacturer or producer having a drawback rate desires to have the rate amended under section 313(a), Tariff Act of 1930, or to change a drawback statement filed under § 22.6, he shall submit a revised drawback statement to the regional commissioner who issued the rate. If warranted, the regional commissioner shall issue an amended rate and revoke the superseded rate in the same action. This procedure also shall apply to amendments of the other rates set forth in paragraph (h) of this section. The revised drawback statement shall be submitted to Headquarters, U.S. Customs Service, except as provided in paragraph (o)(2). **[TDs 52002, 52395, 54155, 54554, 55016, 56288, 71-143, 79-65.]**

(2) A revised drawback statement requesting an amendment under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, shall be submitted to the regional commissioner for action in accordance with paragraph (o)(1), provided the changes covered by the amendment are limited to—

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback rate of the manufacturer or producer;

(iii) A change in name of the manufacturer or producer;

(iv) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(v) Any combination of the foregoing changes.

(p) When a rate of drawback provides that the drawback allowance shall be determined on the basis of a schedule filed by the manufacturer or producer showing the quantity of imported material used or appearing in each unit of finished articles, and the rate authorizes the filing of supplemental schedules showing changes in the quantity of imported materials used or appearing in each unit, or different styles or capacities of containers, such supplemental schedules shall be filed with the regional commissioner, district director, or port director of Customs. Drawback may be allowed on the articles covered by a supplemental schedule after it has been approved by the regional commissioner. **[TDs 52377, 52490, 53268, 71-143.]**

(q) In cases where the drawback allowance is determined on a quantity-used or appearing-in basis, regional commissioners of Customs may request, for the information of liquidating officers in addition to the information required to be filed with the drawback entry, a supplemental advisory schedule showing the quantity of imported merchandise used or appearing in each unit of finished articles. Such schedules shall be filed with the regional commissioner, district director, or port director of Customs. Drawback may be allowed on articles covered by a supplemental advisory schedule after it has been approved by the regional commissioner. **[TDs 52377, 52490, 53268, 71-143.]**

(r) *Expiration, revocation, renewal, or amendment of rates.*—(1) Unless renewed by the rate holder in accordance with paragraph (r)(3), drawback rates issued under this section, or contained in statements approved under section 22.6, shall expire 15 years from the date of issuance or approval, or from the date of approval of any amendment, as applicable, provided such date is on or after [*effective date of this rule*].

(2) If the dates of issuance or approval are before [*effective date of this rule*], an appropriate Customs officer shall notify the rate holder in writing of the provisions of this paragraph. Unless renewed by the rate holder in accordance with paragraph (r)(3), such rate shall expire the later of:

(i) 15 years from the date of issuance or approval, as applicable, or

(ii) 90 days from the date of the notice to the rate holder.

(3) A rate holder may renew its rate by submitting a request in writing, prior to the expiration of the rate, to each regional commissioner where drawback entries filed under the rate have been liquidated. The rate shall be renewed for a succeeding 15-year period upon receipt of the request.

(4) A rate will be revoked if the rate holder specifically requests revocation in writing to an appropriate Customs officer. **[TD 79-65.]**

§ 22.5 Identification of imported merchandise and ascertainment of quantities for allowance of drawback when substituted merchandise is used.

(a) Articles manufactured or produced in accordance with section 313(b), Tariff Act of 1930, as amended, shall be subject to the applicable provision of this part and the records of the manufacturer or producer shall show: **[TDs 48490, 49763(5), 50703, 52826, 53399, 54231, 54750, 55038; CD 108.]**

(1) The quantity, identity, kind, and quality of the duty-paid merchandise or of other articles manufactured or produced under drawback regulations (all of the foregoing hereinafter referred to as designated merchandise) designated as the basis for the allowance of drawback on the exported articles; **[TDs 54231, 54750.]**

(2) That such designated merchandise was used in the manufacture or production of articles by the manufacturer or producer of the exported articles within 3 years after the date on which it was received by such manufacturer or producer; **[TDs 53336, 54750.]**

(3) That the exported articles on which drawback is claimed were manufactured or produced either with the use of (i) the designated merchandise, (ii) other merchandise of the same kind and quality as the designated merchandise, or (iii) any combination of the foregoing; **[TDs 54231, 54750.]**

(4) That the exported articles were manufactured or produced within 3 years after the date on which the designated merchandise was received by the manufacturer or producer of the exported articles; **[TD 53336.]**

(5) That duty-free or domestic merchandise of the same kind and quality as the designated merchandise was used by the manufacturer or producer of the exported articles within 3 years after the date on which the designated merchandise was received by such manufacturer or producer; and **[TD 53336.]**

(6) The quantity of merchandise of the same kind and quality as designated merchandise, used in the manufacture or production of the exported articles. **[TDs 54231, 54750.]**

(b) When valuable wastes are incurred in manufacture or production and the manufacturer or producer has not limited his claims to the quantity of merchandise appearing in the articles manufactured or produced for exportation with benefit of drawback, the records shall show the quantity and value of the merchandise used in the manufacture or production of the articles and the quantity and value of the waste incurred in order that the deduction provided for in § 22.4(a) may be made in liquidation. **[TDs 54231, 54750.]**

(c) Duty-paid merchandise or articles manufactured or produced under drawback regulations which have been used at one plant of a manufacturer or producer within 3 years after the date on which such material was received by such manufacturer or producer may be designated as the basis for the allowance of drawback on articles manufactured or produced in accordance with the regulations in this part at other plants of the same manufacturer or producer. **[TDs 53336, 54231, 54750.]**

(d) Drawback shall be allowed although the exported articles are not of the same kind and quality as the articles which were manufactured or produced with the use of the designated merchandise, provided such exported articles were manufactured or produced with the use of merchandise of the same kind and quality as the designated merchandise. **[TDs 54231, 54750.]**

(e) For purposes of compliance with paragraph (a)(2) of this section, the use of domestic crude petroleum taken in exchange for imported crude petroleum in conformity with Presidential Proclamation No. 3279 of March 10, 1959 (3 CFR, 1959 Supp.) and the Oil Import Regulations issued thereunder (32A CFR Ch. XI), shall constitute use of the imported crude petroleum, provided no certificate of delivery on Customs Form 7543 is issued covering such imported crude petroleum. **[TD 55839.]**

§ 22.6 General drawback rates in effect; approval of drawback statements by Headquarters, U.S. Customs Service and by regional commissioners.

(a) *Drawback statements, filing and approval by one regional commissioner.*—Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g-1), shall submit to the regional commissioner where drawback entries will be filed a drawback statement, in duplicate, describing the methods used in the manufacturer or production of the products involved. The statement also shall set forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of entries. If the statement provides for compliance with the rate, the regional commissioner shall approve the drawback statement and promptly notify the applicant in writing of the action. Drawback statements, in triplicate, relating to products covered by paragraph (g-1) shall be forwarded to Headquarters, U.S. Customs Service for approval. **[TDs 54155, 56288, 56487, 68-203, 71-143, 75-44, 79-65.]**

(b) *Drawback statements; filing and approval at more than one place.* If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing of such action. **[TD 54155, 56288, 71-143.]**

(c) *Drawback statements; revised.*—Revised drawback statements covering changes in drawback statements filed under this section shall be handled in accordance with the provisions of paragraphs (a) and (b) of this section. **[TD 54155, 79-65]**

(d) *Applicability of other drawback provisions to general rates.* The allowance of drawback on articles covered by a drawback rate in this section shall be subject to compliance with the applicable provisions of this part. **[TD 54155.]**

(e) *Bags and meat wrappers.* Drawback may be allowed on the exportation of bags or meat wrappers manufactured with the use of imported burlap or other textile material, subject to the following special regulations: **[TDs 39415, 40422-V, 49639.]**

(1) Each lot of imported material received by a manufacturer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer shall show, as to each manufacturing lot or period of manufacture, the quantity of material used from each import lot and the number of each kind and size of bags or meat wrappers obtained. A certificate of manufacture shall be filed covering each manufacturing lot or period of manufacture.

(2) All bags or meat wrappers manufactured for the account of the same exporter during a specified period may be designated as one manufacturing lot and covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture covering their manufacture.

(3) The drawback allowance shall not exceed 99 percent of the duty paid on the imported material appearing in the exported bags or meat wrappers, unless the manufacturer desires an allowance for waste and so specifies in his statement. In such cases the records of the manufacturer shall show, in addition to the above requirements, the value of the imported material, the quantity of waste incurred in the manufacture of each lot of bags or meat wrappers, or during each period of manufacture, and the value of such waste, if any; and in liquidation the quantity of imported material which may be used as the basis for the allowance of drawback shall be reduced by the quantity of imported material which the value of the waste will replace. **[TD 53268.]**

(f) *Sugar and sirups; substitution.* Drawback may be allowed under the provisions of section 313(b), Tariff Act of 1930, upon the exportation of hard or soft refined sugars and sirups manufactured from raw sugar, subject to the following special regulations: **[TDs 39424, 40605, 40903, 44291, 44673, 49639, 52041, 54155.]**

(1) The drawback allowance shall not exceed 99 percent of the duty paid on a quantity of raw sugar designated by the refiner which contains a quantity of sucrose not in excess of the quantity required to manufacture the exported sugar or sirup, ascertained in the manner hereinafter set forth.

(2) The refined sugars and sirups shall have been manufactured with use of duty-paid, duty-free, or domestic sugar, or combinations thereof, within 3 years after the date on which the designated sugar was received by the refiner, and shall have been exported within 5 years from the date of importation of the designated sugar. **[TD 53336.]**

(3) All granulated sugar testing by the polariscope 99.5° and over shall be deemed hard refined sugar. All refined sugar testing by the polariscope less than 99.5° shall be deemed soft refined sugar. All "blackstrap," "unfiltered sirup," and "final molasses" shall be deemed sirup. **[TD 53399.]**

(4) The imported duty-paid sugar selected by the refiner as the basis for the drawback claim (designated sugar) shall be of the same kind and quality as that used in the manufacture of the exported refined sugar or sirup and shall have been used within 3 years after the date or which it was received by the refiner. Duty-paid sugar which has been used at a plant of a refiner within 3 years after the date on which it was received by such refiner may be designated as the basis for the allowance of drawback on refined sugars or sirups manufactured at another plant of the same refiner. **[TD 53336.]**

(5) For the purpose of distributing the drawback in accordance with the provisions of section 313, Tariff Act of 1930, relative values shall be established between hard refined (granulated) sugar, soft refined (various grades) sugar, and sirups at the time of separation. The entire period covered by an abstract shall be deemed the time of separation of the sugars and sirups covered by such abstract.

(6) The sucrose allowance per pound on hard refined (granulated) sugar established by the liquidation of an abstract shall be applied to hard refined sugar commercially known as loaf, cut loaf, cube, pressed, crushed, or powdered sugar manufactured from the granulated sugar covered by the abstract.

(7) The sucrose allowance per gallon on sirup established by the liquidation of an abstract shall be applied to sirup further advanced in value by filtration or otherwise, unless such sirup is the subject of a special drawback rate.

(8) As to each lot of imported or domestic sugar used in the manufacture of refined sugar or sirup on which drawback is to be claimed, the raw stock records shall show the refiner's raw lot number, the number and character of the packages, the settlement weight in pounds, and the settlement polarization. Such records covering imported sugar shall show, in addition to the foregoing, the import entry number, date of importation, name of importing carrier, country of origin, the Government weight, and the Government polarization.

(9) The melt records shall show the date of melting, the number of pounds of each lot of raw sugar melted, and the full analysis at melting.

(10) There shall be kept a daily record of final products boiled showing the date of the melt, the date of boiling, the magma filling serial number, the number of the vacuum pan or crystallizer filling, the date worked off, and the sirup filling serial number.

(11) The sirup manufacture records shall show the date of boiling, the period of the melt, the sirup filling serial number, the number of barrels in the filling, the magma filling serial number, the quantity of sirup, its disposition in tanks or barrels, and the refinery serial manufacture number.

(12) The refined sugar stock records shall show the refinery serial manufacture number, the period of the melt, the date of manufacture, the grade of sugar produced, its polarization, the number and kind of packages, and the net weight. When soft sugars are manufactured, the com-

mercial grade number and quantity of each shall be shown.

(13) Each lot of hard or soft refined sugar and each lot of sirup manufactured, regardless of the character of the containers or vessels in which it is packed or stored, shall be marked immediately with the date of manufacture and the refinery manufacture number applied to it in the refinery records hereinbefore provided for and shown in the abstract from such records filed in the customhouse. If all the sugar or sirup contained in any lot manufactured is not intended for exportation, only such of the packages as are intended for exportation need be marked as prescribed above, provided there is filed with the district director immediately after such marking a statement showing the date of manufacture, the refinery manufacture number, the number of packages marked, and the quantity of sugar or sirup contained therein. No drawback shall be allowed in such case on any sugar or sirup in excess of the quantity shown on the statement as having been marked. If any packages of sugar or sirup so marked are repacked into other containers, the new containers shall be marked with the marks which appeared on the original containers and a supplemental statement covering such repacking and remarking shall be filed with the district director. If sirups from more than one lot are stored in the same tank, the refinery records shall show the refinery manufacture number and the quantity of sirup from each lot contained in such tank.

(14) An abstract from the foregoing records covering manufacturing periods of not less than 1 month nor more than 3 months, unless a different period shall have been authorized, shall be filed when drawback is to be claimed on any part of the refined sugar or sirup manufactured during such period. Such abstract shall be filed by each refiner with the district director at New York, except as to refineries located in California, Louisiana, Puerto Rico, or Hawaii, for which the abstracts shall be filed respectively with the district directors at San Francisco, New Orleans, San Juan, or Honolulu. The district directors at the ports mentioned shall liquidate the abstracts filed with them and shall keep full and complete records of the kinds and quantities of refined sugars and sirups entitled to drawback on exportation and, upon proper request, shall issue extracts therefrom for use at other ports where drawback entries are filed covering exportations made of such refined sugars and sirups, and shall debit such records with the quantities covered by such extracts. The abstracts filled by each refinery shall be consecutively numbered by the refiner, shall be signed by the head refiner or superintendent or his first assistant, and shall be in the following form: **[TDs 52395, 53268, 54155, 68-239.]**

Abstract from the refinery records of ———————, located at ——————— covering sugars melted and hard and soft refined sugars and sirups manufactured therefrom during the period from ——————— to ———————.

Raw Stock Record

Refiner's raw lot No.	Import entry No.	Packages		Pounds	Polarization	By whom imported or withdrawn	Date of importation	Date of receipt by refiner	Date of melt	Importing carrier	Country of origin
		No.	Kind								

Melt Record

Number of pounds in each lot melted	Polarization		
Lot No.	Pounds	Degrees	Pounds sucrose

Sirup Stock Records

Date of boiling	Refinery serial manufacture No.	Quantity of sirup in gallons	Pounds sucrose contained therein

Refined Sugar Stock Record

Refinery serial production No.	Date of manufacture	Hard or soft refined	Polarization and No.	Net weight in pounds

Recapitulation

Item 1. Sucrose in process at beginning of period	Pounds.
Item 2. Sucrose melted during period	Do.
Item 3. Sucrose in process at end of period	Do.
Item 4. Sucrose used in manufacture	Do.
Item 5. Sucrose contained in manufacture	Do.

Item 1 plus item 2, minus item 3, should equal item 4.

I, ————————, the ——————— refiner at the ——————— refinery of ———————, located at ————————, do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records, which have been kept in accordance with § 22.6(f) of the customs regulations and which are at all times open to the inspection of officers of the customs.

Date ————————.

____
(Signature)

(15) The refiner shall file with each abstract a statement, in the form prescribed, showing the average market values of the products specified in the abstract: **[TD 53268.]**

Market values of refined sugars and sirup for the period ——————— to —————— covered by abstract No. ———————:

Hard refined sugar (bulk)	Per pound.
Blackstrap or unfiltered sirup (bulk)	Per gallon.
Soft refined sugar (bulk) No. 1	Per pound.
Soft refined sugar (bulk) No. 2	Do.
Soft refined sugar (bulk) No. 3	Do.
Soft refined sugar (bulk) No. 4	Do.
Soft refined sugar (bulk) No. 5	Do.
Soft refined sugar (bulk) No. 6	Do.
Soft refined sugar (bulk) No. 7	Do.
Soft refined sugar (bulk) No. 8	Do.
Soft refined sugar (bulk) No. 9	Do.
Soft refined sugar (bulk) No. 10	Do.
Soft refined sugar (bulk) No. 11	Do.
Soft refined sugar (bulk) No. 12	Do.
Soft refined sugar (bulk) No. 13	Do.
Soft refined sugar (bulk) No. 14	Do.
Soft refined sugar (bulk) No. 15	Do.
Soft refined sugar (bulk) No. 16	Do.
Miscellaneous	

I, ————————, —————— (Official capacity) of the ——————, (Refinery) do solemnly and truly declare that the values shown above are true to the best of my knowledge and belief, and can be verified by our records.

Date——————————

____
(Signature)

(16) At the end of each calendar month the refiner shall furnish to the district director at the port where the abstract is filed a statement showing the actual sales of sirup and the average market values of refined sugars for the calendar month.

(17) In the liquidation of abstracts the following examples shall be followed in determining the sucrose allowance to be applied to the various products.

Example of Liquidation

	Pounds	Polarization	Pounds, sucrose
Stock in process at beginning of period	3,650,539	83.43	3,045,645
Raw sugar melted during period	73,186,789	96.65	70,735,032
Less stock in process at end of period			73,780,677
	3,632,470	87.59	3,181,680
Sucrose actually used in manufacture			70,598,997

1 Manufacture		2 Polarization	3 Market value	4 Sucrose allowance per unit	5 Total sucrose allowance
		Degrees	Per pound	Pounds	Pounds
Hard refined sugar	63,192,240	100.00	$0.053	1.04051625	65,752,553
Soft refined:					
No. 1	14,903	98.12	.053	1.04051625	15,507
No. 2	11,060	97.48	.052	1.02088	11,299
No. 3	5,500	94.40	.0505	.991435	5,452
No. 4	4,500	93.84	.05	.981619	4,419
No. 5	19,900	90.67	.0495	.971803	19,334
No. 6	299,933	90.14	.049	.961987	288,539
No. 7	453,762	88.82	.0485	.952171	432,052
No. 8	1,887,936	87.86	.048	.942354	1,779,108
No. 9	342,591	87.56	.0475	.932538	319,477
No. 10	489,098	87.31	.047	.922722	451,301
No. 11	130,800	86.32	.0465	.912906	119,403
No. 12	210,100	86.41	.046	.90309	189,739

1 Manufacture		2 Polarization	3 Market value	4 Sucrose allowance per unit	5 Total sucrose allowance
		Degrees	Per pound	Pounds	Pounds
Soft refined:					
No. 13	174,622	91.19	.0455	.893273	155,985
No. 14	539,158	85.45	.0455	.893273	481,615
			Per gallon		
Sirup (gallons)	214,687	([1])	.136	2.67	573,214
Total					70,598,997

[1] 4 pounds per gallon.

Total market value of production (column 1 times column 3), $3,596,049.50. Sucrose used (70,598,997 pounds) divided by market value ($3,596,048.50) equals pounds sucrose allowable per $1 of market value, or 19.632382 pounds sucrose; this factor multiplied by the market values in column 3 will produce the factors in column 4, which are the pounds of sucrose to be allowed per pound of sugar or gallon of sirup manufactured under this abstract, less 1 percent thereof. Quantities in column 1 multiplied by the quantities in column 4 should equal the quantities in column 5.

Test for Loss

Sucrose in manufacture (column 1 times column 2)	68,077,389/70,598,998=96.43% or 3.57% loss.
Sucrose used in manufacture	

(18) The certificate of delivery shall be in the following form: **[TD 53268.]**

No. ————. Certificate of Delivery—Sugar and Sirup

Certificate of delivery of ———— manufactured by ——— ——— under abstract No. ———— filed at the port of ————.

Description	Quantity	Polarization

Designation of Imported Sugar

Import entry No.	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of raw sugar (pounds)	Polarization	Sucrose (pounds)

I, ————, the ——— of ————, located at ——— ———, declare that the sugar (or sirup) described in the within certificate of delivery was manufactured by said company at its refinery at ———— and is part of the sugar (or sirup) covered by abstract No. ————, filed at the port of ———— and was delivered to ————, 19, ———, and that no other certificate of delivery has been issued covering the above merchandise; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the Customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ———— and was used in the manufacture of sugar and sirup on ————.

Dated ——————.

(Signature)

(19) The drawback entry shall be in the following form: **[TDs 52894, 53268, 54155.]**

Drawback Entry for Sugars and Sirups

United States Customs Service,
Port of ————, *19*——.

Entry for drawback on sugars and sirups exported under notices of exportation, filed by ————, said notices and the merchandise covered thereby being partarly set forth below, together with the designation of imported raw sugar containing sucrose of the quantity used in the manufacture of such merchandise, based on the relative value of the refined sugars and sirups manufactured during the period covered by abstract No. ——— (Customs No. ———) on file with the district director at the port of ————. Drawback claimed under § 22.6(f) of the Customs Regulations.

No. of notice of exportation	Exporting carrier	Date of clearance	Name of shipper	No. of packages	Quantity and description of exported merchandise

Designation of Imported Sugar

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity sugar (pounds)	Polarization	Sucrose (pounds)	Certificate of delivery No.

I, ———————, the ——————— of ———————, located at ——————— declare that the sugar (or sirup) described in this entry, was manufactured by said company at its refinery at ——————— and is part of the sugar (or sirup) covered by abstract No. ———, filed at the port of ———————; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times after will be open to inspection by officers of the Customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on ——————— and was used in the manufacture of sugar and sirup during the period covered by abstract No. ———————, Customs No. ———————, on file with the district director at ———————.

I further declare that the sugar or sirup specified herein was delivered to the above-named shippers.

Dated ——————————.

(Signature)

(20) The declaration of exportation required on Customs Form 7575 shall be made a part of the drawback entry.

(21) When an extract from an abstract from refinery records is required for use at a port other than the port where the abstract is liquidated, the extract shall be in the following form:

Extract from Abstract from Refinery Records of Sugar or Sirup Intended for Exportation with Benefit of Drawback

United States Customs Service

District No. ———, *Port of* ———————,

District Director's Office, ———————, 19——.

This is to certify that there is on record in this office an abstract from refinery record No. ———, Customs No. ———, of ————, located at ———————, covering the following-described merchandise manufactured during the period from ———————, to ———————, for which certificate of delivery No. ——— to —————— has been filed in this office.

Description	Quantity	Sucrose allowance per unit (1 percent to be deducted in duty statement on drawback entry)

Sugar Designated by the Refiner as the Basis for the Allowance of Drawback

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of sugar (pounds)	Polarization	Sucrose	Certificate of delivery

Date of receipt by refiner of above sugar ———————.
Date of use by refiner of above sugar ———————.
Date of delivery of refined sugar or sirup ———————.
Delivered to

————————————————,
District Director.

————————————————,
Comptroller.

To be used at the port of.

(g) *Linseed oil, linseed oil cake, and linseed oil meal.* Drawback may be allowed under the provisions of section 313(a), Tariff Act of 1930, upon the exportation of linseed oil, linseed oil cake, and linseed oil meal, manufactured with the use of imported flaxseed, subject to the following special regulations: **[TDs 48149, 49639, 54155.]**

(1) The mill zones hereinafter referred to embrace:

New York Mill Zone: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York (except Buffalo), New Jersey, Pennsylvania (except Pittsburgh), Delaware, Maryland, and Rhode Island.

Buffalo Mill Zone; Buffalo, N.Y., Pittsburgh, Pa., West Virginia, Ohio, Indiana, Michigan, and Kentucky.

Chicago Mill Zone: Minnesota, South Dakota, Wisconsin, Illinois, Iowa, Nebraska, Missouri, and Kansas.

West Coast Mill Zone: Washington, Idaho, Oregon, California, Nevada, Utah, and Arizona.

(2) Except as provided for in subparagraph (3) of this paragraph, the manufacturing period (hereinafter referred to as the abstract period) of each crusher shall be coextensive with the withdrawal of one or more entire lots or cargoes of imported flaxseed, from the storage tanks and the manufacture into oil and cake of the flaxseed so withdrawn. A cut-off shall be made at the storage tanks

after the withdrawal of one or more complete lots or cargoes, and all the seed from such lots or cargoes in process or contained in bins, screens, conveyors, cookers, presses, expellers, etc., shall be manufactured during the abstract period in order that there may be no overlapping of seed and product from one abstract period to another. If any seed withdrawn from the storage tanks during any abstract period is disposed of without being manufactured into the products specified in this paragraph, it shall be reported on the certificate of manufacture provided for in subparagraph (4) of this paragraph. The quantity of seed so withdrawn shall be stated according to its condition as imported. **[TD 54155.]**

(3) Should it become necessary for a crusher to terminate an abstract period before the complete withdrawal from the storage tanks of any lot or cargo of imported flaxseed contained therein, a cut-off shall be made at the storage tanks and the quantity of imported flaxseed remaining in the tanks after the cut-off shall be determined by weighing, gauging, or measuring under the supervision of a Customs officer. Upon application to the district director in whose district the plant of the crusher is located, a Customs officer shall be assigned for this purpose. All flaxseed withdrawn from storage before the cut-off shall be manufactured into oil and cake or otherwise disposed of before a new abstract period is begun.

(4) At the conclusion of each abstract period during which a crusher manufactures oil, cake, or meal for exportation with benefit of drawback, such crusher shall file a certificate of manufacture, constituting an abstract of his manufacturing records, with the district director at any one of the following ports: New York, N.Y.; Philadelphia, Pa.; Chicago, Ill.; Cleveland, Ohio; San Francisco, Calif.; or Seattle, Wash. **[TD 53268.]**

(5) Such certificate shall show the inclusive dates of manufacture; the quantity, identity, and value (if valuable wastes occur) of the imported flaxseed or screenings, scalpings, chaff, or scourings used; the quantity by actual weight and value, if any, of the material removed from the foregoing by screening prior to crushing; the quantity and kind of domestic merchandise added, if any; the quantity by actual weight or gauge and value of the oil, cake, and meal obtained; and the quantity and value, if any, of the waste incurred. The quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used or of material removed shall not be estimated nor computed on the basis of the quantity of finished products, obtained, but shall be determined by actually weighing the said flaxseed, screenings, scalpings, chaff, scourings, or other material; or, at the option of the crusher, the quantities of imported materials used may be determined from customs weights, as shown by the import entry covering such imported materials, and the Government weight certificate and certificate of analysis issued at the time of entry. The entire period covered by an abstract shall be deemed the time of separation of the oil and cake covered thereby.

(6) The drawback allowance shall not exceed 99 percent of the duty paid on the quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used in the manufacture of the exported products, less the quantity of such imported materials which the value of the waste will replace, as shown by the abstract of the manufacturing records provided for above. **[TD 53268.]**

(7) The drawback allowance shall be distributed to the oil and cake in accordance with their relative values at the time of separation, and the drawback allowance on the processed oil and on the oil meal shall be the drawback accruing to the raw oil and to the cake from which the processed oil and the meal, respectively, were produced.

(8) In order that the relative values may be determined for use as the bases for the distribution of the drawback to the several products as prescribed in section 313(a), Tariff Act of 1930, each crusher operating under the provisions of this paragraph shall file with the district director, New York, N.Y., within 10 days after the 1st and the 15th days of each month a statement in duplicate showing the quantity of oil in barrels of 375 pounds each and the quantity of cake or meal in tons of 2,000 pounds delivered each day from the mill during the preceding period (that is, 1st to 15th or 16th to the last day of the month) to points in the zone in which the mill is located. The total daily quantity and value of such products delivered with drawback not reserved by the crusher and the total daily quantity of such products delivered with drawback reserved by the crusher shall be stated separately. The value of oil shall be shown on the carload raw basis in barreled condition, that is, if the oil was processed, the processing differential shall be deducted, or, if it was delivered in tank wagons or tank cars, the barreling differential shall be added. The values of cake and meal shall be shown on the carload basis in bags. The values of oil cake, and meal, as outlined above, shall be reported on the basis of the invoices of sale, without deduction for the cost of containers and other charges. **[TD 53268.]**

(9) Upon receipt of the statements from the crushers concerned, the district director at New York shall determine and declare the daily average values of the raw linseed oil and linseed cake manufactured by the crushers in each mill zone. Such daily average values shall be ascertained in the following manner: **[TD 53268.]**

(i) The total quantity of oil delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such oil (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation shall be the daily average value of such oil.

(ii) The total quantity of cake delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such cake (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such cake

(iii) The total quantity of meal delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such meal (the quotient to be extended to 6 decimal places), less the amount deducted for the cost of packing, grinding, and other charges necessary to reduce such meal to a cake basis, shall be the daily average value of the cake from which such meal was ground.

(iv) The weighted average of the two values determined in accordance with subdivisions (ii) and (iii) of this subparagraph shall be the daily average value of the cake concerned.

(v) If no deliveries of oil, cake or meal are made to a point in the mill zone on a certain day, the last daily average value established by the district director at New York for that product shall be used as the value thereof for the day on which no deliveries were made.

(vi) The amount to be deducted from the delivered value of oil cake, or meal by the district director at New York to make relative value at the point of separation shall be an average amount for each zone obtained by averaging the cost of packing and other charges of all crushers within the zone concerned. In order that this deduction may be made, each crusher shall furnish the district director at New York, from time to time as the collector may request, a statement showing such costs and charges.

(10) After the close of each calendar month the district director at New York shall prepare for each mill zone a statement showing the daily average values of cake and oil ascertained as above, and shall transmit to the district directors at Philadelphia, Chicago, Cleveland, San Francisco, and Seattle copies of such statements as cover zones in which crushers who file abstracts at the respective ports are located.

(11) To ascertain the relative values of the cake and oil for the period covered by an abstract, the district director concerned shall add the daily average values for his zone of cake and oil, respectively, as furnished by the district director at New York, for each day of the period covered by the abstract and shall divide the totals thus obtained by the number of such daily average values.

(12) Upon the application of any crusher operating under this paragraph, the district director at any of the above-mentioned ports is authorized to advise such crusher of the daily average values of cake and oil established by the district director at New York for the zone in which the crusher is located, and of the relative values of such products as determined for the period covered by an abstract filed by such crusher with the district director to whom application has been made.

(13) If a crusher desires to file his abstract at one of the above-enumerated ports not located within the mill zone in which his plant is situated, the daily average values of the oil and cake for the zone in which the plant of the crusher is situated shall be certified by the district director at New York to the district director at the port where such abstract is to be filed, on the request of such crusher; and the district director at such port shall ascertain the relative values of the products for the period covered by the abstracts in the manner prescribed in subparagraph (11) of this paragraph. **[TD 54155.]**

(14) If the records of the manufacturer do not show the quantity of oil cake used in the manufacture of the exported oil meal and the quantity of oil meal obtained, the net weight of the oil meal exported shall be regarded in liquidation as the weight of the oil cake used in the manufacture thereof.

(15) If various tanks are used for the storage of imported flaxseed, the mill records shall show by a definite designation the tank or tanks in which each lot or cargo is stored.

Abstract of Manufacturing Records

....

(Name of company) (Location of refinery)

Period from .... to ....

Material used (in bbls. at 60°)

	Totals	Crudes				Derivatives[1]	
		Class I	Class II	Class III	Class IV	Naphtha class IV	Etc.
(1) Opening inventory							
(2) Material introduced							
(3) Closing inventory							
(4) Total consumption							

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[1] Additional columns will be shown for each additional type and class.

(16) If raw or processed oil manufactured during different periods of manufacture is intermixed in storage, a record shall be maintained showing the quantity, identity, and kind of oil so intermixed. Identification shall be made in accordance with § 22.4(f). If oil so intermixed is delivered to manufacturers whe the oil in the manufacture of articles to be exported, the certificate of delivery shall show the certificates of manufacture from which such oil may have originated.

(17) If linseed cake or meal is placed in storage, it shall be segregated by abstract periods or marked to show the period in which it was manufactured.

(g-1) *Crude petroleum and petroleum derivatives; substitution.* Drawback may be allowed under the provisions of section 313(b), Tariff Act of 1930, as amended, upon the exportation of petroleum products manufactured from crude petroleum or petroleum derivatives, subject to the following regulations: **[TD 56487.]**

(1) The drawback allowance shall not exceed 99 per centum of the duty paid on the quantity of crude petroleum or petroleum derivatives designated by the refiner in accordance with the law and regulations from which the exported products could have been produced in the exported quantities, in conjunction with the related products, producible by ordinary manufacturing techniques, as determined in the manner hereinafter set forth.

(2) The petroleum products shall have been manufactured with the use of duty-paid, duty-free, or domestic crude petroleum or petroleum derivatives or combinations thereof, within 3 years after the date on which the designated crude petroleum or petroleum derivatives were received by the refiner, and shall have been exported within 5 years from the date of importation of the designated crude petroleum or petroleum derivatives.

(3) The imported duty-paid crude petroleum or petroleum derivatives designated by the refiner as the basis for the drawback claim shall be of the same kind and quality (class) as that used in the manufacture of the exported petroleum products and shall have been used within 3 years after the date on which it was received by the refiner. Duty-paid crude petroleum or petroleum derivatives used at a plant of a refiner within 3 years after the date it was received may be designated as the basis for the allowance of drawback on petroleum products manufactured at another plant of the same refiner.

(4) For purposes of substitution, crude petroleum and petroleum derivatives (hereinafter called raw material) will be divided into the following classes: Class I, 0-11.9° API gravity; Class II, 12°-24.9° API gravity; Class III, 25°-44.9° API gravity; and, Class IV, 45°-up API gravity. Any crude petroleum included in any class shall be considered for the purposes of these regulations as being of the same kind and quality as any other crude petroleum included in the same class; similarly, any named derivative in any class shall be considered as being the same kind and quality as the same named derivative in the same class.

(5) The amount of any one type and class of raw material which may be designated as the basis for the allowance of drawback on the exported products produced at a given refinery and covered by a drawback entry shall not exceed the quantity of such raw material used at the refinery during the abstract period or periods from which the exported products were produced. The quantity of raw material to be designated as the basis for the allowance of drawback on exported products must be at least as great as the quantity of raw material of the same type and class which would be required to produce the exported products in the quantities exported.

(6) For the purpose of distributing the drawback to the several products in accordance with section 313, Tariff Act of 1930, relative values shall be established at the time of separation between all products manufactured. The entire period covered by an abstract shall be deemed the time of separation of the products, and the value per unit of each product shall be the average market value for the abstract period.

(7) The refiner's manufacturing records shall consist of daily gauge reports on all raw material storage tanks, or if no storage tanks are maintained, daily meter records of raw material received. They will also show daily quantities and description of all materials introduced into the manufacturing process, and the quantity and description of each product manufactured.

(8) An abstract from the aforementioned records shall be filed with the district director covering manufacturing periods of not less than 28 days and not more than 31 days, unless a different period shall have been authorized.

Production

Period from ——— to ———

Product	Quantity in barrels	Value per barrels	Value of product	Drawback factor per barrel
(5)	(6)	(7)	(8)	(9)
A				
B				
C				
D				
E				
F				
G				
H				
I				
J				
K				
Loss (or gain)				
Total				

Item (6) Products shall be shown on the abstract in the net quantities realized in the refining process and shall not include non-petroleum additives.

Item (9) Quantity of crude (sum of all classes and derivatives) allowable per barrel of product.

A separate abstract will be prepared by each refiner for each refinery from which an export shipment may be made. The abstract filed for each refinery, in the following form, shall be signed by an officer of the company or by an employee with Customs power of attorney having knowledge of the facts.

(9) The refiner will file an inventory control sheet showing for each product, in barrels, the opening inventory, the production, exports, drawback deliveries, domestic shipments, and closing inventory, as well as the drawback factor applicable thereto, as per the following form:

Inventory Control Sheet

Period from .... to ....

	Product A		Product B		Product G		Product H	
	Barrels	Drawback factor	Barrels	Drawback factor	Barrels	Drawback barrels	Barrels	Drawback factor
(10) Opening inventory								
(11) Production								
(12) Exports								
(13) Drawback deliveries								
(14) Domestic shipments								
(15) Closing inventory								

(10) Opening inventory from previous period's closing inventory.
(11) From production period under consideration.
(12) From lowest on hand (inventory or production). Totals from drawback entry or entries recapitulated.
(13) Deliveries for further manufacture—lowest on hand after exports are deducted.
(14) From earliest on hand after items (12) and (13) are deducted.
(15) Balance on hand.

(10) The refiner shall file a combination drawback entry and certificate of manufacture showing the products exported in the quantities established by the notices of lading and other evidence of exportation. Inasmuch as exported products, as described on the notices of lading and other evidence of exportation may include quantities of nonpetroleum additives, a recapitulation shall be made showing quantities exported and the quantity of each product (less additives) in terms of the abstract. **[TD 72-310.]**

(11) The total quantity of raw material on which drawback may be based, subject to limitations hereinafter specified, shall be computed by multiplying the quantity (in the terms of the abstract) of each product exported by the drawback factor for that product. See "Inventory Control Sheet" for method of accounting.

(12) The amount of drawback determined in accordance with these regulations shall be limited by the quantity of imported duty-paid raw material of the same kind and quality as that used in the manufacture of the exported products in a quantity sufficient to produce such products, with due regard to the products producible concurrently with the exported products and shall not exceed 99 per centum of the duty paid on the imported merchandise against which drawback is claimed.

Recapitulation of Drawback Entry

Period from ———— to ————

Product	Quantity in barrels exported	Quantity in barrels in the terms of the abstract	Drawback factor per barrel	Crude allowed for drawback in barrels
(16)	(17)	(18)	(19)	(20)
A				
B				
C				
D				
E				
F				
G				
H				
I				
J				
Total				

Item 16 should list only products exported.

Item 17 should be in condition as shown on the notices of exportation and notices of lading.

Item 18 should be in condition as shown on the abstract (i.e., less additives if any).

Item 19 is the lowest drawback factor (inventory or production) shown on the Inventory Control Sheet.

Item 20 is the result of multiplying item 18 by item 19.

Liquidation: Total crude (as above) allowable for drawback × rate of duty on crude designated = gross drawback allowable. Less 1 percent thereof = net drawback due claimant.

(13) The exportation of a given quantity of a product affords a proper basis for the allowance of drawback only

to the extent that the product could have been produced in that quantity (together with the quantities of related products concurrently producible) from the imported duty-paid material. The test is whether the conversion is practicably possible by ordinary manufacturing techniques, not laboratory techniques, and is not whether the conversion was actually made.

(14) Industry Standards of Potential Production on a Practical Operating Basis shall be submitted by the industry for each type and class of raw material. Upon verification and adoption by Headquarters, U.S. Customs Service, the standards may be used to establish that the exported products in the quantity exported could have been produced from the quantity of imported duty-paid raw materials designated by the refiner as the basis for the allowance of drawback on the exported products.

(15) While the drawback factors for the products exported will be established on the basis of the volume and values covering the actual production during the refining period of the given refiner, as shown on the abstract filed by that refiner, it is not necessary that the refiner export products in the same percentages as they appear on the abstract, nor need he export products in the exact percentages shown on the applicable standard of potential production. He may limit his exportations to one product and disregard the related products provided that, (i) the drawback allowance shall not exceed 99 per centum of the duty paid on the raw material allowable for designation, and (ii) sufficient duty-paid raw materials (of the required kind and quality) to produce the exported product (together with the quantities of the related products concurrently producible) are available to constitute a proper basis for the allowance of drawback on the exported products.

(16) Whether the exported product or products could have been produced on a practical operating basis from the quantity of duty-paid raw material designated in the drawback entry as the basis for the allowance of drawback on the exported product or products may be established by reference to the standard or standards of potential production for each type and class of raw material identified by the claimant in his drawback entry.

Industry Standard of Potential Production on a Practical Operating Basis

Product	Class I crude	Class II crude	Class III crude	Class IV crude	Naphtha
A	—%	—%	—%	—%	—%
B	—%	—%	—%	—%	—%
C	—%	—%	—%	—%	—%
D	—%	—%	—%	—%	—%
E	—%	—%	—%	—%	—%
F	—%	—%	—%	—%	—%
G	—%	—%	—%	—%	—%

(17) No claim for drawback against imported raw materials shall be allowed unless the refiner in connection with each such claim shall certify that all of the products exported for which draw-back has been or are being claimed could be produced concurrently on a practical operating basis from the imported raw materials against which drawback is claimed.

(h) *Piece goods.* Drawback may be allowed under the provisions of section 313(a), Tariff Act of 1930, upon the exportation of bleached, mercerized, printed, dyed, or redyed piece goods manufactured or produced by any one or a combination of the foregoing processes with the use of imported or drawback woven piece goods, subject to the following special regulations:

(1) The records of the manufacturer or producer shall show, as to each lot of piece goods manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and value of the imported or drawback piece goods used, the condition in which imported or received (whether in the gray, bleached, dyed, or mercerized), the working allowance specified in the contract under which they are received, the process or processes applied thereto, and the quantity and description of the piece goods obtained.

(2) The records also shall show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred.

(3) Further, the records shall show the quantity of rag waste incurred and its value. In instances where it is impracticable to account for the actual quantity of rag waste incurred, it shall be assumed in liquidation that such rag waste constituted 2 percent of the piece goods put into process.

(4) The piece goods manufactured or produced hereunder may also be subjected to one or more finishing processes.

(5) An abstract of the manufacturing or production records shall be filed with the drawback entry.

(6) The quality of piece goods upon which drawback may be allowed shall be computed as follows: Deduct from the quantity of piece goods received the quantity of remnants and spoilage, if any, incurred, the proper allowance to be made for shrinkage or stretch, of any, occurring during manufacture or production. Reduce the remaining quantity by the quantity thereof which the value of the rag waste will replace. When necessary for the purposes of liquidation, the value of the imported or drawback piece goods used shall be furnished by the owner.

(7) The drawback allowance shall not exceed the duty paid, less 1 per centum thereof, on the net quantity of finished piece goods exported, determined as above, as shown by the abstract of the manufacturing or production records; or, in the case of piece goods manufactured or produced hereunder with the use of drawback piece goods, the drawback accruing to such net quantity, as established by the abstract of the manufacturing or production records and the certificates of manufacture and delivery covering the drawback piece goods concerned.

(8) Drawback shall not be allowed hereunder when the

process performed results only in the restoration of the articles to their condition at the time of importation.

(i) *Fur skins and fur skin articles.* Drawback may be allowed under the provisions of section 313(a), Tariff Act of 1930, upon the exportation of dressed, redressed, dyed, redyed, bleached, blended, or striped fur skins or fur skin articles manufactured or produced by any one or a combination of the foregoing processes with the use of fur skins or fur skin articles, such as plates, mats, sacs, strips, and crosses, imported in a raw, dressed, or dyed condition, subject to the following special regulations:

(1) The records of the manufacturer or producer shall show, as to each lot of fur skins and fur skin articles manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and description of the imported merchandise used, the condition in which imported, the process or processes applied thereto, the quantity and description of the finished articles obtained, and the quantity of imported pieces rejected, if any, or spoiled in manufacture or production.

(2) An abstract of the manufacturing or production records shall be filed with the drawback entry.

(3) The drawback allowance shall not exceed the duty paid, less 1 per centum thereof, on the quantity of imported merchandise used in the manufacture or production of the exported articles, as shown by the abstract of the manufacturing or production records. The quantity of imported merchandise used shall be determined by deducting from the quantity of fur skins or fur skin articles put into manufacture or production the quantity of rejects and spoilage incurred, if any.

(4) Drawback shall not be allowed hereunder when the process performed results only in the restoration of the articles to their condition at the time of importation.

§ 22.7 Evidence of exportation.

(a) *Optional procedures.* Exportation of articles covered by a drawback claim shall be established by compliance with the provisions of one of the following procedures: **[TDs 52894, 72-310, 73-5.]**

(1) Certified Notice of Exportation described in paragraph (b) of this section;

(2) Uncertified Notice of Exportation described in paragraph (c) of this section;

(3) Exporter's Summary described in paragraph (d) of this section.

(b) *Certified Notice of Exportation procedure.* (1) A notice of exportation, in triplicate, on Customs Form 7511 for each shipment of merchandise on which drawback is to be claimed under this procedure shall be filed by the exporter or his agent with the district director of Customs at the port at which the shipment is to be exported from the United States. Such notice shall show the name of the exporting vessel or other carrier, the number and kind of packages and their marks and numbers, the description of the merchandise and its weight (gross and net), gage, measure, or number, the name of the exporter, and the name of the port where the drawback entry is to be filed. If the merchandise is to be exported in railroad cars, a notice of exportation shall be filed for each car. **[TDs 53025, 54435, 72-310.]**

(2) Except as provided for in § § 22.8 and 22.9, the notice of exportation shall be filed with the shipper's export declaration, or, if filed subsequently, it shall be filed within 3 years after exportation and shall state the number, if any, and date of the shipper's export declaration. One shipper's export declaration may cover several notices of exportation. A notice of exportation not filed in the time and manner herein specified shall not be accepted unless its acceptance is specifically authorized by Headquarters, U.S. Customs Service.

(3) Upon receipt of the notice of exportation, the district director shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. If a number has been assigned to the corresponding shipper's export declaration, the same number shall be assigned to the notice of exportation. If a shipper's export declaration covers more than one notice of exportation, each of the notices shall be assigned the same number as that assigned to the shipper's export declaration, but each notice shall be further identified by the addition of an alphabetic designation beginning with the letter "A." However, if no number has been assigned to the shipper's export declaration, each notice of exportation shall be separately numbered. On one of the copies of the notice, the district director shall certify (i) as to the exportation of the merchandise as shown by the records of his office, and (ii) as to the name of the exporter as shown by the shipper's export declaration covering the merchandise. The district director shall return such copy and one uncertified copy to the person designated by the exporter, for subsequent filing with the drawback entry. Whenever the district director is unable to certify to the exportation of the merchandise covered by the notice of exportation, he shall return two copies of the notice to the exporter or to the person designated by the exporter, with a statement of the facts in the case.

(4) When drawback is to be claimed under section 313(a), (b), or (g), Tariff Act of 1930, with the use of this procedure, on an aircraft departing under its own power from the United States, or on merchandise exported by aircraft, the notice of exportation shall be filed in the manner prescribed herein at the port where the shipper's export declaration is filed.

(5) When merchandise is laden on a vessel for transshipment at a domestic port outside the continental United States, the notice of exportation shall be filed with the district director of Customs at the port where the merchandise was last transshipped for its foreign destination (the place where the shipper's export declaration is filed).

(6) Drawback claims on articles exported by mail must be supported by certified notices of exportation. See § 22.8 herein.

(c) *Uncertified notice of exportation procedure.* (1) The claimant may support the drawback entry with an uncertified notice of exportation on Customs Form 7511 for each shipment of merchandise covered by the claim. The notice of exportation shall show the name of the exporting vessel or other carrier, the number and kind of packages and their marks and numbers, the description of the merchandise and its weight (gross and net), gage, measure, or number, and the name of the exporter. An uncertified notice of exportation shall be supported by documentary evidence of exportation, such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier, and any additional evidence required by Customs officers to fully establish the time and fact of exportation. **[TDs 54435, 72-310.]**

(2) Prior to filing an uncertified notice of exportation with the drawback entry, the claimant shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. The number assigned shall correspond to that of the supporting document, such as the bill of lading, air waybill, or cargo manifest which is filed with the notice of exportation. If the supporting document covers more than one notice of exportation, each of the notices shall be assigned the same number, but each notice shall be further identified by the addition of an alphabetic designation beginning with the letter "A." However, if no number has been assigned to the supporting document, each notice of exportation shall be separately numbered.

(d) *Exporter's summary procedure.* (1) A procedure consolidating claims for drawback on a periodic basis shall be available when such procedure will substantially reduce the paperwork involved. Under this procedure the drawback entry shall be supported by a chronological summary of the exports and any additional evidence required by Customs officers to fully establish the fact of exportation and shall be permitted only when complete and accurate information is available from the records of the exporter-claimant. **[TD 72-310.]**

(2) Application to use this procedure shall be made to the regional commissioner of Customs with whom drawback claims will be filed. Permission to use the procedure may be granted if, in the regional commissioner's discretion, he shall conclude that the circumstances so warrant and provided that the following conditions are met:

(i) Prior to filing the drawback claim the claimant's export volume is found sufficient to justify the proposed usage of the exporter's summary procedure by the regional commissioner of Customs in whose region the claims are to be filed;

(ii) A bond is furnished by the exporter-claimant in an amount determined by the district director of Customs, subject to approval of the regional commissioner, to protect the revenue against erroneous payment of drawback due to the incorrect description of (*a*) the exported articles, (*b*) the party entitled to drawback, or (*c*) the facts of exportation;

(iii) For a period of 3 years from the date of payment of the drawback, evidence of exportation, that must include the identity and location of the ultimate consignee of the exported goods, shall be retained by the exporter-claimant for examination by authorized Government officials.

(3) The chronological summary of the exports shall be in a format acceptable to the regional commissioner of Customs with whom drawback claims are filed and shall contain substantially the data provided for in the sample format which follows:

Chronological Summary of Exports

Drawback Entry No. ————————

Exporter/Claimant ——————————————————————————————

Period from —————————————————— to ——————————————————

Date of export	Exporting carrier	Freight or air waybill, bill of lading, manifest No., etc.[1]	Marks and numbers	Description	Net quantity	Schedule "B" number
(1)	(2)	(3)	(4)	(5)	(6)	(7)

[1] This number is to be used to associate the claim with exportation evidence retained by claimant.

§ 22.8 Notice of exportation; mail shipments.

(a) *Procedure.* If the merchandise on which drawback is to be claimed is to be exported by mail or parcel post, the notice of exportation shall be filed in triplicate with the postmaster at the place of mailing and the merchandise shall be delivered to the postmaster at the same time and mailed under his supervision. Such notices shall be numbered by the exporter in accordance with § 22.10. **[TDs 52894, 53336, 72-310.]**

(b) *Waiver of withdrawal.* Each package to be exported shall have stamped or written thereon a waiver of the right to withdraw the package from the mails, signed by the exporter. **[TDs 70-89, 72-310.]**

(c) *Certification.* After the packages have been mailed, the postmaster will execute his certificate on one of the copies of the notice of exportation and return such copy and one uncertified copy to the exporter, or to the person designated by the exporter, for subsequent filing with the drawback entry. One copy will be retained by the postmaster as his record of the transaction. **[TD 72-310.]**

§ 22.9 Evidence of exportation; Government shipments.

(a) *Procedure.* In the case of a shipment by a department, branch, or agency of the U.S. Government, the exportation may be established as provided by any one of the procedures set forth under § 22.7 when the drawback is to be claimed by such department, branch, or agency. The supplier of the merchandise may establish exportation under § 22.7 (b) or (c) only. No bond shall be required when the U.S. Government claims drawback under the provisions of § 22.7(d). **[TDs 52894, 72-310.]**

(b) *Certification.* When the certified notice of exportation procedure (§ 22.7(b)) is to be used: **[TD 72-310.]**

(1) Three copies of the notice of exportation shall be filed by the exporter or his agent with the Government officer in charge of transportation at the port of exportation. Such notice of exportation shall be numbered by the exporter in accordance with § 22.10. **[TD 52894.]**

(2) The notice of exportation shall bear an endorsement in the following form, to be placed thereon by the exporter, for execution by the Government transportation officer at the port of exportation:

Certification of Exportation

This is to certify that the merchandise described herein was laden at the port of ——————, for ——————— (foreign destination—actual or code); that the exporting conveyance departed from the above-named port on —————— (date); and that ——————— (name) was the actual shipper of the merchandise.

____
(name)

____
(date)

____
(rank, organization, title)

(3) The Government transportation officer at the port of exportation will certify exportation on the notice of exportation, mark "Copy" on the copies and return the original and one copy to the person who presented the notice. One copy of the notice of exportation will be retained by the Government transportation officer as his record of the transaction.

§ 22.10 Numbering notices of exportation for mail or government shipments.

Notices of exportation covering government shipments or shipments by mail shall be given, for identification purposes, a number by the exporter in a series beginning with No. 1 for each 12-month period commencing on July 1 of each year. One series of numbers shall be used by each exporter to cover both types of shipments made by him.

§ 22.11 Amendment of notices of exportation.

At any time within the 3-year period prescribed for the completion of the drawback claim, any certified or uncertified notice of exportation or exporter's summary may be amended if the regional commissioner is satisfied as to the correctness of the amendment. Every application for amendment and its supporting evidence shall be in writing and submitted to the regional commissioner of Customs for the region supervising the port where the drawback entry is filed. **[TDs 52894, 53025, 72-310.]**

§ 22.12 Examination of merchandise.

The district director may examine any merchandise being exported with benefit of drawback if he is not satisfied as to the bona fides of the shipment. **[TD 52894.]**

§ 22.13 Completion of drawback claims.

(a) A drawback entry and certificate of manufacture shall be filed within 3 years after the date the articles are exported. Such entry and certificate shall be filed on Customs Form 7575 except in cases covered by paragraph (c) or (e) of this section. If any entry and certificate is filed on Customs Form 7575, such form shall be filed in duplicate; and, if the entry is filed on Customs Form 7573, only one copy (the original) need be filed, provided that an additional copy of either form may be required by the district director of Customs if he deems such additional copy necessary for administrative use in his office. When the entry covers exports under § 22.7(b), the copy of the notice of exportation certified by the district director of Customs shall be filed with the entry. When the entry covers exports under § 22.7(c), one copy of the uncertified notice of exportation, together with the original or a certified copy of the supporting document shall be filed. The certified or uncertified notice of exportation shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped, showing that the person making entry is authorized to make it and to receive the drawback. One entry may cover several shipments. With respect to exportations under the provisions of § 22.7(d), one copy of the chronological summary of exports, shall be filed with the entry. All documents necessary to the liquidation of the entry, including those issued by one Customs officer to another, shall be filed or applied for, as the case may require within the 3-year period prescribed above, except that any required landing certificate shall be filed within the time prescribed in § 22.17(c). Claims not completed within the 3-year period prescribed above shall be treated as abandoned and no extension will be granted, unless it is established that failure to complete the claim within 3 years was occasioned by the action of a responsible Customs officer. **[TDs 43822, 51024, 52395, 52894, 53025, 53399, 54029, 72-310.]**

(b) A statement in duplicate of the papers filed, showing the dates on which official documents were applied for, may be presented with the drawback entry, When such statement has been verified as to the papers filed, one copy shall be receipted and returned to the claimant and the other copy attached to the drawback entry. When a landing certificate is required, it shall be furnished prior to the liquidation of the entry.

(c) If certificates of manufacture are filed prior to the filing of the entry, they shall be referred to in the entry by the official number in lieu of the particulars of importation and manufacture. In such cases the entry shall be on Customs Form 7573.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture is on file, the district director at the port where the certificate is on file, after liquidation and at the request of the person filing the certificate or the person to whom such merchandise was delivered, as shown by said certificate, shall issue an extract therefrom on Customs Form 4537 for use at the port where the entry is filed. Such extract shall be transmitted to the district director at the latter port and, for the purpose of identification, reference may be made thereto as in the case of an original certificate.

(e) When completely manufactured articles are purchased for exportation and the drawback is to be paid to the purchaser, the entry shall be on Customs Forms 7573 and be accompanied by a certificate of manufacture and delivery on Customs Form 7577, if such a certificate is not already on file.

(f) In the case of a vessel, or aircraft upon which drawback is to be claimed under section 313(g), Tariff Act of 1930, there shall be filed with the drawback entry a copy of the contract under which the vessel or aircraft was built or the pertinent part thereof showing that it was built for foreign account and ownership. In the case of a vessel, except a warship, there shall also be filed a certificate of clearance for the foreign port, if the vessel is cleared from a port other than that at which the entry is filed, and a certified copy of the registry certificate or, in lieu thereof, a certificate of the consul of the foreign nation to which the vessel belongs, showing that the said vessel has been documented under the flag of that country. In the case of warships, the certificates of clearance and foreign documentation shall not be required. **[TDs 52037, 52342, 53268.]**

(g) A drawback entry may be corrected, or a timely supplemental entry filed, only when permission is granted by the district director. Corrections or amendments permitted must be certified by the appropriate parties. **[TD 53268, 54029.]**

§ 22.15 Certificates of delivery of imported merchandise.

(a) When the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until there has been filed with the district director at the port where the drawback entry is filed a certificate of delivery in duplicate on Customs Form 7543 or official evidence of the existence of such a certificate filed at another port, fully describing the merchandise delivered and tracing it from the custody of the manufacturer. Reference may be made to this certificate by the manufacturer in his certificate of manufacture in lieu of the particulars of importation, provided the certificate covers but one importation. **[TDs 39150, 50780, (3), 52894, 53268.]**

(b) If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be shown on the certificate of delivery by a certificate of the person through whose possession the merchandise passed. **[TD 53268.]**

(c) When the imported merchandise is covered by a consumption entry and the consignee named therein has declared another person to be the actual owner, such consignee shall be considered the importer for drawback purposes irrespective of whether an owner's declaration was filed in accordance with section 485(d), Tariff Act of 1930, and a certificate of delivery from such consignee to the person to whom delivery was made shall be required.

(d) The persons in whose name merchandise is withdrawn from bonded warehouse shall be considered the importer for drawback purposes, and certificates of delivery covering prior transfers of such merchandise while in bonded warehouse shall not be required. **[TD 38115.]**

§ 22.16 Certificates of manufacture and delivery; manufactured or partly manufactured articles.

(a) When the imported merchandise used has passed through some process of manufacture before delivery and the wholly or partly manufactured article is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, a certificate of manufacture and delivery shall be filed on Customs Form 7577. Such certificate shall be required whether the drawback is claimed by the exporter or has been reserved by the manufacturer. **[TD 52894.]**

(b) In drawback entries covering the exported articles, reference may be made to such certificates in lieu of stating the particulars of importation and manufacture, except when the article or merchandise has been further manipulated before exportation, in which event such additional manufacturing steps shall be covered by a proper certificate of manufacture.

(c) Any intermediate transfer of such manufactured articles shall be certified on the certificate of manufacture and delivery.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture and delivery is on file, an extract may be issued on Customs Form 4537.

§ 22.17 Landing certificates.

(a) A landing certificate shall be required (1) whenever the district director of Customs at the port of exportation or at the port where the drawback entry is filed or the regional commissioner for the region where the drawback claim is liquidated shall have reason to believe that the shipment is not a bona fide exportation, (2) when Headquarters, U.S. Customs Service specifically directs that a landing certificate shall be produced, (3) when a landing certificate is otherwise required by law or regulation, and (4) for every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. Landing certificates for aircraft shall show the exact time of landing of the aircraft in the foreign country and describe the aircraft or parts thereof, on which drawback is claimed in sufficient detail to enable Customs officers to identify them with the bill of landing, air waybill, cargo manifest or notice of exportation. **[TDs 39609, 52395, 52894, 53268, 72-310.]**

(b) Whenever a landing certificate is required, it shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of unlading.

(c) When a landing certificate is specifically required by the district director or Headquarters, U.S. Customs Service, but not otherwise, reasonable notice in writing of such requirement shall be given by the district director to the exporter or his agent. The landing certificate shall be filed within 1 year from the date of the notice unless an extension of such period is specifically authorized by Headquarters.

(d) When a landing certificate is required by the district director, other satisfactory evidence of the foreign landing may be accepted in lieu of the landing certificate.

(e) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the regional commissioner through the district director within the time required for filing the certificate, accompanied by such evidence of exportation and landing abroad as may be available. The application shall be granted if the regional commissioner is satisfied by the evidence submitted that the merchandise has been exported. If the regional commissioner is not so satisfied, he shall transmit the application and its accompanying evidence to Headquarters, U.S. Customs Service for final determination. **[TD 77-242.]**

§ 22.18 Supplies for certain vessels and aircraft.

(a) Drawback of duties and taxes shall be allowed on articles laden on certain vessels or aircraft as supplies or for use as equipment or in the maintenance or repair of certain foreign vessels or aircraft, as provided for in section 309, Tariff Act of 1930, as amended,[6] subject to the requirements of this section. **[TDs 46522, 49456, 49658, 50501, 53336, 55653, 78-99.]**

(b) The procedure prescribed in this part as to the filing of an application for a rate of drawback and other required documents shall be followed, so far as applicable, in filing claims for drawback under this section, except that notices of lading on Customs Form 7514 shall be filed in lieu of notices of exportation on Customs Form 7511.

(c) A notice of lading on Customs Form 7514 shall be filed in quadruplicate with the district director at the port of lading. Such notice shall show the name of the vessel or identity of the aircraft on which the articles were, or are to be, laden, the number and kind of packages and their marks and numbers, the description of the articles and their weight (net), gauge, measure, or number, the name of the exporter, and the name of the port where the drawback entry is to be filed. The notice of the lading may be filed before or after lading of the articles but, if filed after lading, it shall be filed within 3 years after exportation and shall show the date of clearance or departure of the vessel or aircraft. The district director shall assign a number to each notice of lading. After numbering, one copy of the notice shall be returned to the exporter for delivery to the master or an authorized officer of the vessel or aircraft, or to a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a Customs power of attorney, for certification thereon as to the receipt of the articles and the quantity laden. This copy shall be filed by the claimant with the drawback entry, except that, in cases where the notice of lading was filed after the lading of the articles, a separate receipt of the master or authorized officer of the vessel or aircraft, or of a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a Customs power of attorney, may be filed with the drawback entry. **[TDs 52894, 52966, 53497, 55749, 55929, 78-99.]**

(d) After the vessel has cleared or obtained a permit to proceed, the district director at the port of lading shall execute his certification on one of the copies of the notice of lading and return it, with one uncertified copy, to the exporter, for subsequent filing with the drawback entry. If the vessel is not required to clear or obtain a permit to proceed to another port, the district director shall return two copies of the notice to the exporter, or to the person designated by the exporter, with a statement of the facts in the case for subsequent filing with the drawback entry. In such cases, the district director at the port where the drawback entry is filed shall require the claimant to furnish an itinerary of the vessel for the immediate voyage to determine whether the vessel is engaged in a class of business or trade which warrants the allowance of drawback.

(e) Paragraphs (g) and (h) of this section, insofar as applicable, shall apply with respect to aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign aircraft is permitted. **[TDs 51567, 52894, 53497, 55374, 55653.]**

(f) [Reserved]

(g) In any case in which it is desired to land in the United States articles covered by a notice of lading, the master shall make application for a permit to land such articles under Customs supervision. Except when transfer is made under the original notice of lading to another vessel entitled to the drawback privilege, the articles landed shall be treated as imported merchandise under section 309(c), Tariff Act of 1930, as amended. **[TDs 50957, 52894, 53399.]**

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[6] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic origin may be withdrawn, under such regulations as the Secretary of the Treasury may prescribe, from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty and internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax—

"(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the United States, (B) vessels of the United States employed in the fisheries or in the whaling business or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, or (C) aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; or

"(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign vessels is permitted; or

"(3) for supplies (including equipment), ground equipment, maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted. With respect to articles for ground equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

"The provisions for free withdrawals made by this subsection (a) shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States."

"(b) *Drawback.* Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone, and articles of domestic manufacture or production, laden as supplies upon any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign vessel or aircraft, shall be considered to be exported within the meaning of the drawback provisions of this Act.

"(c) *Articles removed in, or returned to, the United States.* Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft or otherwise returned to the United States, shall be treated as an importation from a foreign country.

"(d) *Reciprocal privileges.* The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U.S.C. 1309)

(h) If the supplies were laden on an American vessel, a declaration of the master or other officer of the vessel who has knowledge of the facts, or of a representative of the vessel owner or operator having knowledge of the facts and holding a Customs power of attorney, showing the class of business or trade in which the vessel on which the articles were laden as supplies was engaged at the time of lading shall be furnished in support of the drawback entry. Such declaration may be executed on the copy of the notice of lading on which the master or other officer or authorized representative certifies as to the receipt and quantity of the articles laden, or be separately furnished, and shall be in substantially the following form: **[TDs 51567, 51603, 52894, 53268, 55374, 55653, 55929.]**

I—, ————————— (Master or other officer or authorized representative) of the S.S. ——————, declare that I have knowledge of the facts set forth herein; that certain articles covered by notice of lading No. ———, filed at the port of ——————, were laden on the above-named vessel at said port on —————, 19—, for use on board the vessel as supplies; and that at the time of lading of the articles, said vessel was engaged in the business or trade checked below:

1. Fisheries.
2. Whaling.
3. Trade between Atlantic and Pacific ports of the United States.
4. Trade between the United States and any of its possessions.
5. Foreign trade.
6. Trade between Hawaii or Alaska and any other part of the United States.

(Name and title)

(i) [Reserved]

(j) In the case of articles laden or installed on aircraft as equipment or claimed to have been used in the maintenance or repair of aircraft, the regional commissioner shall require such declarations or other evidence as will satisfy him concerning the facts. In the case of fuel laden on vessels or aircraft as supplies there may be filed with the regional commissioner a composite notice of lading for each calendar month covering all deliveries of fuel supplies during that month by one drawback claimant at a single port or airport to all vessels or airplanes of one vessel owner or operator or airline engaged in appropriate traffic. The notice shall show, either on its face or on a continuation sheet, as to each voyage or flight, the identity of the vessel or aircraft, the description of the fuel supplies laden, the amount laden, and the date of lading. At the end of the line relating to each voyage or flight sufficient space shall be left for the district director's notation as to clearance. On the reverse of the notice the "Receipt of Master or Other Officer" shall be certified by a vessel or airline representative having knowledge of the facts and holding a Customs power of attorney. The declaration of master or other officer of American vessel shall be completed as set forth in paragraph (h) of this section. **[TDs 51567, 52894, 53268, 55653, 55749, 70-94.]**

(k) Drawback entries shall be filed on Customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting," and the "Declaration of exportation" shall be amended to read as follows: **[TDs 52894, 53268, 55653.]**

Declaration of Lading or Use

I, ———————— (member of firm, officer representing corporation, agent, or attorney) of ————————, do solemnly and truly declare that, according to the best of my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that such merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft herein for ——————————————— (State specifically, such as supplies, equipment, maintenance, or repair) as specified in section 309, Tariff Act of 1930, as amended.

Dated ————————

Shipper or agent. (Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309)

§ 22.19 Meats cured with imported salt.

(a) All provisions of the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise, including the application for a rate of drawback and the filing of a statement, shall apply to the refund of duty on salt used in curing meats, except that the duty to be refunded is not subject to the retention of 1 percent and that no refund shall be made in an amount less than $100. Claims amounting to less than $100 shall be permitted to accumulate until the sum due reaches that amount. **[TDs 52894, 33268.]**

(b) The prescribed forms shall be modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

§ 22.20 Liquidation of drawback entries.

(a) Proper drawback claims may be liquidated (1) after the deposit of estimated duties on the imported merchandise and before liquidation of the import entry or (2) after liquidation of the import entry becomes final. **[TDs 26001, 52894, 68-203.]**

(b) Payment of drawback may be based on estimated duties if the import entry has not yet been liquidated and the drawback claimant and the party responsible for the payment of liquidated import duties (if different from the claimant) each files a written request relating to each drawback entry requesting payment on this basis and waiving any right to payment or refund except in accordance with the provisions of this section. A drawback entry, once liquidated on the basis of estimated duties shall not thereafter be adjusted by reason of the subsequent liquidation of an import entry. However, if final liquidation of the import entry discloses that the total amount of import duty is different from the total estimated duties deposited, the party responsible for the payment of liquidated duties (1) shall be liable for 1 percent of all increased duties found to be due on that portion of the merchandise transferred to the drawback entry or (2) shall be entitled to a refund of 1 percent of all excess duties found to have been paid on that portion of the merchandise transferred to the drawback entry. **[TD 68-203.]**

(c) After the import entry has been liquidated, the liquidated duties have been paid, and such liquidation has been made final by operation of law or by acceptance of the liquidation in writing by the importer, payment of drawback shall be based on the final liquidated duties paid. **[TD 68-203.]**

(d) When the drawback claim has been completed by the filing of the entry, notices of exportation, and other documents required by the regulations in this part, the landing certificate has been produced where required, and clearance of the exporting conveyance has been established by the record of clearance in the case of direct exportation or by certificate in the case of exportation at another port, the regional commissioner shall ascertain the drawback due by reference to the records of importation and the drawback rate under which the drawback claimed is allowable. **[CAD 114, TD 68-203.]**

(e) The values to be used in computing the distribution of drawback where two or more products result from the manipulation of the imported merchandise, pursuant to section 313(a), Tariff Act of 1930,[8] shall be market values unless the special regulations under which drawback is claimed provide otherwise. **[TD 68-203.]**

(f) The amount of drawback due having been ascertained, the regional commissioner shall certify such amount for payment to the person making the entry or to the person to whom the maker on the face of the entry directs that such payment be made. **[TD 68-203.]**

§ 22.20a Accelerated payment of drawback claims.

A claimant for drawback whom the regional commissioner of Customs determines not delinquent or otherwise remiss in transactions with Customs, is eligible for accelerated payment of drawback claims which are properly prepared and fully completed as provided in § 22.13. A claimant, requesting accelerated payment of a claim, shall submit with the claim a computation of the amount due thereon and shall also file with Customs, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment. In lieu of filing Customs Form 7609 or 7611, a claimant may provide appropriate coverage by executing and attaching an approved rider to a General Term Bond for Entry of Merchandise, Customs Form 7595, at the time of filing Customs Form 7595. When a rider is to be attached to Customs Form 7595, the amount of the bond shall be increased by the estimated amount of accelerated drawback to be claimed during the term of the bond. If actual accelerated drawback claims exceed the estimated amount of accelerated drawback, additional bond coverage shall be required. If the regional commissioner, after receiving a claim, determines that the conditions for accelerated payment are met and that the claim appears reasonable in amount, he shall, within 3 weeks after the claim is filed, certify it for payment. After liquidation, any amount found to be due will be paid or a demand for refund of any excess payment paid will be made. The right to receive accelerated payments shall be denied claimants repeatedly computing claims erroneously, thereby necessitating demands for refund. **[TDs 73-3, 75-78, 78-140]**

§ 22.21 To whom payable.

(a) The person named as exporter in (1) the district director's certificate on the notice of exportation, or in (2) the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, when other than the Certified Notice of Exportation procedure is used, shall be held to be the exporter and entitled to the drawback, unless the manufacturer or producer, on the sale or consignment of such articles, shall have reserved to himself the right to claim the drawback, in which case such manufacturer or producer may make entry for such drawback and it shall be paid to him upon the production of satisfactory evidence that such reservation was made with the knowledge and consent of the exporter. **[TDs 10186, 42841; 52894, 72-310.]**

(b) The drawback may alternatively be paid to the agent of the manufacturer, producer, or exporter, as the case may be, or to the person to whom such manufacturer, producer, exporter, or agent shall direct in writing that such drawback be paid.

Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax-Paid Alcohol

§ 22.22 Drawback allowance.

(a) Upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic tax-paid alcohol, a drawback of the internal-revenue tax paid shall be allowed in accordance with the provisions of section 313(d), Tariff Act of 1930, as amended.[9] **[TDs 49658, 50501, 52041, 52894. CD 694.]**

(b) Drawback of internal-revenue tax shall be allowed on such articles when shipped to the Virgin Islands, Puerto Rico, Guam, or American Samoa, in accordance with the provisions of I.R.C. section 7563.[10]

§ 22.23 Procedure.

(a) In the allowance of drawback of internal-revenue tax under the preceding section, the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise shall be followed so far as applicable and except as otherwise specified in this section and § § 22.24, 22.25, and 22.26. The 3-year period for the completion of drawback claims prescribed in § 22.13(a) shall be applicable to claims for drawback under section 313(d), Tariff Act of 1930, as amended. **[TDs 52894, 53025, 53336; CD 1361.]**

There is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Wake Island, Midway Islands, Kingman Reef, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

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[8] "* * * Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation." (Tariff Act of 1930, sec. 313(a), as amended; 19 U.S.C. 1313(a))

[9] "Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used. * * *." (Tariff Act of 1930, sec. 313(d), as amended; 19 U.S.C. 1313(d).)

[10] "All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, the Virgin Islands, Guam, or American Samoa." (I.R.C. sec. 7653(c); 26 U.S.C. 7653(c).) **[TD 79-276.]**

(b) The statement of the manufacturer shall set forth the quantity of domestic tax-paid alcohol contained in each of the various products covered thereby. **[TDs 52377, 53268]**

(c) The notice of exportation shall be filed on Customs Form 7511. When it covers duty-paid imported merchandise, in addition to the tax-paid alcohol, two sets of drawback entries shall be filed, one set for Customs drawback and the other for internal-revenue drawback.

(d) The following forms shall be used in lieu of the corresponding forms used in the case of articles manufactured with the use of imported merchandise:

Drawback entry, Customs Form 7579.
Drawback entry and certificate of manufacture, Customs Form 7583.
Certificate of manufacture and delivery, Customs Form 7585.
Certificate of delivery of tax-paid alcohol, Customs Form 7545.

(e) In the case of medicinal preparations and flavoring extracts there shall be filed with the drawback entry, or endorsed on the entry or certificate of manufacture, a declaration of the manufacturer showing whether claim has been, or will be, made by the manufacturer for domestic drawback allowable on the involved alcohol under the provisions of sections 5131, 5132, 5133, and 5134, Internal Revenue Code, as amended. If no claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for the domestic drawback, the manufacturer shall submit two copies of a statement setting forth that fact to the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located. The statement shall show the quantity and description of the exported products, the identity of the alcohol used by serial number of package or tank car, the name and registry number of the warehouse from which the alcohol was withdrawn, the date of the withdrawal, the serial number of the tax-paid stamp or certificate, and the port where the drawback claim will be filed. The regional regulatory administrator shall verify the statement, forward the original of the document to the port designated, and retain the copy. Such declarations and statements shall not be required in the case of toilet preparations (including perfumery). **[TDs 51154, 53268, 54770, 78-329.]**

(f) In cases where the percentage of alcohol contained in a medicinal preparation, flavoring extract, or toilet preparation varies from the quantity of alcohol shown by a previously approved statement or schedule to be contained in the said exported product in an amount equal to more than 5 percent of the total volume of the product, the procedure set forth in § 22.4 (o) applicable to the amendment of rates of drawback to cover additional articles shall be followed. Changes of 5 percent, or less of the volume of the product shall be reported to the district director at the port where the drawback entries are liquidated which officer may allow drawback on such articles without specific Headquarters, U.S. Customs Service authorization. **[TDs 51984, 52377, 53268.]**

§ 22.24 Manufacturing record.

The description of the alcohol required to be stated in the entry may be obtained from the package containing the tax-paid alcohol. There shall be kept by the manufacturer of the flavoring extracts or medicinal or toilet preparations on which drawback is claimed a record of all such preparations manufactured, the quantity of wastage, if any, and a full description of the alcohol. This record shall be open at all times to the inspection of Customs officers. **[CD 694; TD 52894.]**

§ 22.25 Bureau of Alcohol, Tobacco and Firearms certificates and extracts.

(a) *Request.* The drawback claimant or manufacturer shall make a written request to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms where the alcohol used in manufacture was withdrawn, for the issuance of a tax-paid certificate on Alcohol, Tobacco and Firearms (ATF) form 5100.4, to the regional commissioner of Customs with whom the drawback claim will be processed. **[TDs 42270, 52894, 53378, 53400, 54770, 78-329.]**

(b) *Contents.* The request must state:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant;

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs form 7545.* If the request is accompanied by a Custom form 7545 showing any of the information required in paragraph (b) of this section, that information need not be repeated in the request.

(d) *Articles manufactured with the use of rectified or redistilled alcohol.* For drawback on flavoring extracts or medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the ATF form 5100.4 must state, in addition to other required information:

(1) Name of the rectifier;

(2) Quantity in wine gallons of rectified alcohol produced;

(3) Proof;

(4) Quantity in proof gallons produced;

(5) Amount of tax paid;

(6) Date of withdrawal; and

(7) Serial numbers of the rectifier's stamps covering the alcohol.

(e) *Extracts from Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in a certificate on ATF form 5100.4 is required for the liquidation of drawback entries processed in another region, the Regional Commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The Regional Commissioner shall note that the copy, of the extract was prepared and transmitted.

§ 22.26 District director's statement of drawback due.

(a) When the drawback claim has been completed by the filing of the entry and other documents, as required by the regulations in this part and any required landing certificate has been produced, the regional commissioner of Customs shall proceed to ascertain the amount of drawback due by reference to the certificate of manufacture and the drawback rate under which the drawback claimed is allowable. **[TDs 42270, 52894, 72-310.]**

(b) If the declaration required by § 22.23 (e) shows that claim has been, or will be, made for the domestic drawback referred to in that section, the allowance of drawback under the provisions of section 313 (d), Tariff Act of 1930, as amended, shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed. If the declaration and verified statement required by § 22.23(e) show that no claim has been, or will be, made by the manufacturer for the domestic drawback, the drawback allowed shall be the full amount of the tax paid on the alcohol used. **[TDs 51154, 52490, 53268, 53378, 54770.]**

(c) The amount of drawback due having been ascertained, such amount shall be certified for payment in accordance with section 22.20(f). **[TDs 51154, 51559, 53378, 54770, 71-143.]**

(d) No deduction of 1 per centum shall be made in allowing drawback claims under section 313(d), Tariff Act of 1930, as amended. [28 FR 14778, Dec. 31, 1963, as amended by T.D. 71-143, 36 FR 10848, June 4, 1971; T.D. 72-310, 37 FR 23715, Nov. 8, 1972] **[TD 51154.]**

Foreign-Built Jet Aircraft Engines Processed in the United States

§ 22.26a Drawback allowance.

(a) Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than $100.[11a] **[TD 72-203.]**

(b) Drawback entries shall be filed on Customs Form 7575-A appropriately modified to show that the entry covers jet aircraft engines processed under section 1313(h), Tariff Act of 1930, as amended. The entry shall show the country in which each engine was manufactured and describe the processing performed thereon in the United States.

(c) Drawback of duties found due shall be refunded in aggregate amounts of not less than $100 in accordance with the regulations in this part covering manufactured articles except that there shall be no deduction of 1 percent from the amount of the duties paid. [T.D. 72-203, 37 FR 14994, July 27, 1972]

Merchandise Exported From Continuous Customs Custody

§ 22.27 Drawback allowed.

(a) Merchandise on which the duties have been paid and which has remained continuously in bonded warehouse or otherwise in Customs custody since importation may be entered or withdrawn at any time within 3 years after the date of importation for exportation or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, and upon such exportation or shipment the duties shall be refunded in accordance with the provisions of section 557(a), Tariff Act of 1930, as amended.[12] **[TDs 49658, 52894, 53933.]**

(b) Guantanamo Bay Naval Station shall be considered foreign territory for the purpose of allowing drawback under this section.[13] **[TDs 52417, 79-276.]**

§ 22.28 Continuous custody.

(a) No remission, abatement, refund, or drawback of duty shall be allowed on account of the exportation of any merchandise after its release from the custody of the Government, except as specified in section 558, Tariff Act of 1930, as amended.[14] **[TDs 4843, 41885, 49658, 52894. Abs. 45766.]**

(b) Merchandise which has been released to an importer under the bond prescribed by § 143.3(a) of this chapter and returned to the appraiser's stores upon requisition of the district director, and merchandise released under a temporary importation bond as provided for in schedule 8, part 5C, Tariff Schedules of the United States, shall not be deemed to have been in the continuous custody of Customs officers. **[TDs 16162, 16180, 53399, 55978, 73-175.]**

(c) Merchandise which remains upon the wharf by permission of the district director shall be held to be in Customs custody. This custody shall be deemed to cease when the permit has been accepted by the Customs officer in charge, and there is nothing further to be done by him in the way of measuring, weighing, gauging, etc. **[TDs 6488, 16367, 29640.]**

[11a] "(h) Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than $100." (Subsection (h), section 313, Tariff Act of 1930, as amended (19 U.S.C. 1313(h).)

[12] "* * * Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, the duties thereon shall be refunded." (Tariff Act of 1930, sec. 557(a), as amended; 19 U.S.C. 1557(a))

[13] Imported merchandise which has remained continuously in bonded warehouse or otherwise in customs custody since importation is not entitled to drawback of duty when shipped to Puerto Rico, Canton Island, Enderbury Island, or Palmyra Island. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557) **[TD 79-276.]**

[14] "(a) No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

"(1) When articles are exported with respect to which a drawback of duties is expressly provided for by law;

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; and

"(b) When articles are exported or destroyed under customs supervision after once having been released from customs custody, as provided for in subsection (c) of section 304 of this Act, such exportation or destruction shall not exempt such articles from the payment of duties other than the marking duty provided for in such subsection (c)." (Tariff Act of 1930, sec. 558, as amended; 19 U.S.C. 1558)

(d) In the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when the Customs warehouse officer with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse, as provided for in § § 144.38(e) and 19.6 of this chapter. **[CAD 572. TDs 47462, 48465, 53336, 73-175.]**

(e) Except as stated in paragraph (c) of this section, merchandise examined elsewhere than at the public stores in accordance with the provisions of § 151.7 of this chapter shall be considered released from Customs custody when final examination for purposes of appraisement has been completed. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557) **[CD 113. TDs 48739, 49206, 73-175.]**

§ 22.29 Entry and completion thereof.

(a) At least 6 hours before the lading of any merchandise on which drawback is claimed, the importer or whomever he may designate in writing shall file with the district director an entry in duplicate on Customs Form 7541. **[TDs 52894, 54029.]**

(b) When the merchandise is to be transported to another port for exportation, the entry shall be filed in triplicate and shall name the transporting conveyance, the route, and the port of exit. One copy of the entry shall be certified by the district director and forwarded by him to the district director at the port of exit. The merchandise shall be transported by a bonded carrier in accordance with the regulations covering transportation in bond, and manifests shall be prepared and filed in the manner prescribed in § 144.37 of this chapter. **[TDs 54029, 73-175.]**

(c) The regulations in Part 18 as to supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed so far as applicable.

(d) In order to complete the drawback entry, a bill of lading issued by the proper representative of the exporting carrier and covering the merchandise described in the entry shall be filed within 2 years after the date the merchandise is exported. The bill of lading shall show that the merchandise was shipped by the person making the drawback entry, or shall bear an endorsement of the person in whose name the merchandise was shipped showing that the person making entry is authorized to make it and to receive the drawback. The terms of the bill of lading may limit and define its use by declaring it to be for Customs purposes only and not negotiable. If a copy of the original bill of lading is filed, it shall bear the signature of the person issuing it.

(e) Neither a memorandum copy of the bill of lading issued by the transportation company nor a bill of lading bearing merely the initials of the representative of the transportation company shall be accepted in lieu of the bill of lading described above.

(f) District directors may issue on Customs Form 4475 extracts from bills of lading filed with drawback entries.

(g) When a required bill of lading cannot be produced, the person making the drawback entry may, within the time required for the filing of the bill of lading, request the regional commissioner, through the district director, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been explored, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service for final determination. **[TDs 53268, 77-242.]**

(h) A landing certificate, when required, shall be filed within the time prescribed in § 22.17(c). (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

§ 22.30 Ascertainment of drawback.

(a) When the drawback entry has been completed and the bill of lading filed, together with the landing certificate when required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the district director with whom such entry and proofs are lodged shall verify the facts of importation by reference to the records in his office and ascertain the amount of duty paid on the merchandise exported. The drawback found due shall be allowed in accordance with the regulations covering manufactured articles, but there shall be no deduction of 1 percent. **[TDs 52041, 52894.]**

(b) Liquidation of the drawback claim shall proceed as provided in § 22.20 (a), (b), and (c) of this chapter. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557) **[TDs 26001, 68-203.]**

Rejected Merchandise

§ 22.31 Drawback allowance.

Upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee, the duties paid thereon, less 1 percent, shall be refunded as drawback in accordance with the provisions of section 313(c), Tariff Act of 1930,[15] as amended, subject to compliance with the regulations in § § 22.32 to 22.35. **[TDs 44369, 52894, 53336.]**

§ 22.32 Drawback entry.

(a) An importer of merchandise claimed not to conform to sample or specifications or to have been shipped to him without his consent, who desires to export such merchandise with benefit of drawback, shall file with the district director at the port where the merchandise was entered or at any other port a drawback entry in duplicate on Customs Form 7539, stating the quantity and description of the merchandise and identifying it with the import entry. The drawback entry shall also specify the place where the merchandise is to be deposited in Customs custody. If the district director is of the opinion that the place specified is not suitable for the proper examination of the merchandise and any necessary repacking, he shall require the merchandise to be delivered to a suitable place at the expense of the applicant. **[TDs 53268, 53336, 53399, 54029, 55114.]**

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[15] "Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties." (Tariff Act of 1930, sec. 313(c), as amended; 19 U.S.C. 1313(c))

(b) Each drawback entry covering merchandise not conforming to sample or specifications or shipped without the consent of the consignee shall be executed in the name of the importer of record, unless another person has been named in the import entry as the actual owner and the declaration of such owner has been timely filed, in which case the drawback entry may be filed in the name of either such owner or the importer of record. If the goods are claimed to be not in accordance with sample or specifications, the drawback entry shall be accompanied by a copy of the order for the merchandise, copies of any preliminary correspondence, and the samples or specifications on which the merchandise was ordered, together with a certificate of the actual owner that the sample or specifications submitted are those on which the merchandise was ordered, showing in detail in what manner the merchandise does not conform to sample or specifications. If no written order was placed and no sample or specifications are available, a certificate of the actual owner setting forth the specifications of his order and the method by which they were communicated to the seller may be accepted. If the merchandise was shipped to the importer without his consent, a clear statement of that fact shall be submitted, together with all information in the possession of the importer as to the reason for the shipment. In doubtful cases the district director may decline to allow the claim unless there is produced corroboration by the shipper of the specifications or circumstances, or other evidence sufficient in the opinion of the district director to establish the claim. **[TDs 55114, 55958, 68-203.]**

§ 22.33 Return of merchandise to Customs custody.

(a) Upon receipt of the drawback entry, the district director shall assign a number thereto, by appropriate notation on all copies, approve the place of deposit of the merchandise specified by the person making the entry or designate another place if that one is not deemed suitable, and return the original to the entrant for presentation with the merchandise to the Customs officer at the place of deposit. The merchandise shall be delivered into Customs custody at such place within 90 days after the date on which it was originally released from Customs custody unless, either before or after the return of the merchandise, a longer time is specially authorized by Headquarters, U.S. Customs Service, or by the district director under the authority of this paragraph. The district director, upon written application, may extend the period in those cases where he is satisfied that the importer has been or will be prevented by circumstances beyond his control from returning the merchandise within the 90-day period, and that the importer proposes to return, or has returned, the merchandise within a reasonable time. Applications for extension of time shall be filed with, and acted upon by, the district director at the port where the drawback entry will be filed. If the merchandise is to be exported otherwise than by mail, one copy of the entry shall be returned to the entrant, for resubmission to the district director in accordance with paragraph (e) of this section. A receipt showing the fact and date of such delivery shall be furnished to the applicant if he requests it. If the report of the receiving officer shows that the merchandise was not returned to Customs custody within the time required by law, the drawback shall be denied. **[TDs 44369, 52626, 52894, 53336, 53399, 54009, 54454, 55114.]**

(b) If the merchandise is to be exported through the mails, it shall be deposited with the postmaster for delivery to the district director of Customs at the port where the merchandise was originally entered. The parcel in which the merchandise is packed shall be properly wrapped, stamped, and addressed for mailing to the foreign destination, and shall be enclosed in a wrapper addressed to the district director of Customs at the port where such merchandise was originally entered. A waiver of the right to withdraw the merchandise from the mails, signed by the exporter, shall be affixed, stamped, or written on both the inner and outer wrappers. The outside wrapper shall bear an appropriate notation to the effect that the contents are intended for examination and exportation under section 313(c), Tariff Act of 1930, as amended. If the parcel is to be insured or registered to cover the transportation from the port of original entry to the foreign destination, the exporter shall deposit with the district director of Customs at such port the necessary funds to cover the charges for insurance or registry. **[TDs 48496, 70-89.]**

(c) The drawback entry, fully executed in duplicate on Customs Form 7539, shall accompany or be mailed simultaneously with the parcel, unless such form is not available to the exporter, or unless the information necessary to complete the entry is not available at the time of mailing, in either of which cases the merchandise may be submitted without the entry to the postmaster for delivery to the district director. When the returned merchandise is received by the district director without the related drawback entry, he shall immediately furnish the exporter with the proper number of copies of Form 7539 for prompt execution and return. The dates of the delivery of the merchandise from the post office on importation and the return thereto for exportation shall be considered the dates of release from and return to Customs custody, respectively, within the meaning of section 313 (c), Tariff Act of 1930, as amended. Drawback shall be refused if the merchandise was not returned to custody within 90 days after its release therefrom, or within a longer period authorized by Headquarters, U.S. Customs Service or by the district director pursuant to authority in paragraph (a) of this section. **[TDs 48496, 52464, 53336, 53399, 54009, 54029.]**

(d) The applicant shall submit for the information of the district director the parcel post or registered mail receipt or other evidence from the postmaster at the depositing office showing the date on which the merchandise was returned to the postmaster, together with evidence of the date of delivery of the incoming package from the post office. **[TD 48496.]**

(e) The entrant shall be advised of the approval of his entry and mailing of the merchandise or of the disapproval of his entry. If the entry has been approved and the merchandise is to be exported otherwise than by mail, the importer or whoever shall have been designated by the importer in writing shall file with the district director, at least 6 hours before lading of the merchandise, a copy of the entry with the name of the exporting carrier and the place of lading shown thereon and the exporter's declaration thereon fully executed. The export procedure and liquidation of the entry shall be the same, so far as applicable, as in the case of an exportation of merchandise from continuous Customs custody with benefit of drawback. If the drawback is denied, the entrant shall advise the district director as to the disposition to be made of the merchandise. **[TDs 52464, 53399.]**

(f) In order to complete the drawback entry, a bill of lading and a landing certificate, when required under § 22.17(a), shall be filed in the manner and within the time prescribed in § 22.29 in the case of merchandise exported from continuous Customs custody. **[TDs 51827, 52894.]**

§ 22.34 Acceptance of merchandise at importer's risk and expense; time limit for exportation.

Merchandise returned to Customs custody under section 313(c), Tariff Act of 1930, as amended, shall be accepted only at the risk and expense of the party in interest. If the merchandise is not exported within 90 days from the date of notification of approval of the drawback entry, it shall be treated as unclaimed, except that the 90-day period may be extended for not more than 90 days by the district director upon written request by the original applicant. **[TDs 44369, 52464, 52894, 53399.]**

§ 22.35 Waiver of proof where the duty is less than $50.

With the exception of the drawback entry, the above provisions relative to proof of non-conformity to sample or specifications, or of shipment without the consent of the consignee, may be waived in whole or in part if the duty on the merchandise to be exported is less than $50 and the district director is otherwise satisfied that the claim is well founded. **[TDs 44369, 52894, 53399, 55114.]**

Merchandise Transferred to a Foreign-Trade Zone From Customs Territory

§ 22.36 Drawback allowance.

(a) Drawback of duties and taxes shall be allowed on merchandise transferred to a foreign-trade zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19 U.S.C. 81c),[16] subject to compliance with §§ 22.37 to 22.40, inclusive. **[TD 54022.]**

(b) Such merchandise shall be given status as zone-restricted merchandise on proper application as prescribed in § 30.10 of this chapter. (Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 22.37 Articles manufactured or produced in the United States.

(a) The procedure prescribed in this part as to the filing of an application for a rate of drawback and other required documents shall be followed, so far as applicable, in filing claims for drawback under the fourth proviso to section 3 of the act of June 18, 1934, as amended (19 U.S.C. 81c), on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol, except that notices of transfer on Customs Form 7514 shall be filed in lieu of notices of exportation on Customs Form 7511. **[TDs 54022, 78-99.]**

(b) Notices of transfer on Customs Form 7514 shall be filed in triplicate with the district director at the port where the foreign-trade zone is located. Each notice shall show the number and location of the foreign-trade zone to which the articles are to be transferred, the number and kind of packages and their marks and numbers, the description of the articles and their weight (gross and net), gauge, measure, or number, the name of the transferor, and the name of the port where the drawback entry is to be filed. **[TD 78-99]**

(c) The notice of transfer shall be filed with the district director prior to the transfer of the articles to the zone, or within 3 years after receipt of the articles in the zone and, if filed after the transfer, shall state the foreign-trade zone lot number.

(d) The district director shall assign a number of each notice of transfer. After numbering, one copy of the notice shall be returned to the transferor for subsequent filing with the drawback entry. After the articles have been received in the zone, the Customs officer at the zone shall certify on the copy of the notice of transfer received from the district director as to the receipt of the articles in the zone and forward the notice to the transferor, or the person designated by the transferor, for subsequent filing with the drawback entry. Prior to filing such certified copy with the drawback entry, the transferor shall obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone.

(e) Drawback entries shall be filed on Customs Form 7573, 7575-A, 7575-B, 7579 or 7583, as applicable, modified to indicate that the merchandise was transferred to a foreign-trade zone and the "Declaration of Exportation" shall be amended to read as follows:

Declaration of Transfer to a Foreign-Trade Zone

I, ——————————————— (Member of firm, officer representing corporation, agent, or attorney) of ——————— ————————————— declare that, to the best of my knowledge and belief, the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and such merchandise was transferred to a foreign-trade zone for the sole purpose of exportation, destruction, or storage, and is not to be returned to Customs territory of the United States for domestic consumption. (Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

____
(Transferor or agent)

Date________________________

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[16] "* * * *Provided further*, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of:

"(a) The drawback, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

"(b) The statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

"Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615(f) of section 1201 of this title: * * *" (19 U.S.C. 81c.)

§ 22.38 Merchandise transferred to a foreign-trade zone from continuous Customs custody.

(a) The procedure prescribed in §§ 22.27 to 22.30, inclusive, shall be followed, so far as applicable, in filing claims for drawback on merchandise transferred to a foreign-trade zone from continuous Customs custody. Prior to the transfer of such merchandise, the importer, or a person designated in writing by the importer for the purpose, shall file with the district director an entry in duplicate on Customs Form 7541. After the merchandise has been received in the zone, the Customs officer at the zone shall certify on the copy of Form 7541 received from the district director as to the receipt of the merchandise in the zone and forward it to the transferor, or the person designated by the transferor, to obtain thereon the foreign-trade zone operator's certification as to the receipt of the articles in the zone, in lieu of the bill of lading required by § 22.29(d), and resubmit the copy to the district director. **[TD 54022.]**

(b) Customs Form 7541 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement in the following form, to be placed thereon by the transferor, for execution by the foreign-trade zone operator:

Receipt of Foreign-Trade Zone Operator

The merchandise described in this entry was received from ——————————— on —————, 19 ——, in Foreign-Trade Zone No. ———, ——————————— (City and State)

Exceptions: ———————————

(Name of operator)

By

(Name and title)

The "Exporter's Declaration" on Form 7541 shall be amended to read as follows:

Transferor's Declaration

I, ———————————, one of the firm of ——————————————, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. ——————————, located at ——————————— (City and State), for the sole purpose of exportation, destruction, or storage, and is not to be returned to Customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by way of drawback or otherwise. (Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

(Transferor)

Date

§ 22.39 Rejected merchandise.

(a) The procedure prescribed in §§ 22.31 to 22.35, inclusive, shall be followed, so far as applicable. The importer or a person designated in writing by the importer for the purpose shall file with the district director, prior to the transfer of any merchandise to a foreign-trade zone, an entry in duplicate on Customs Form 7539. The procedure shall be the same, so far as applicable, as that governing the transfer of merchandise to a foreign-trade zone from continuous custody (§ 22.38). **[TD 54022.]**

(b) Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign-trade zone and shall bear an endorsement, to be executed by the foreign-trade zone operator, of a receipt as provided for in § 22.38(b). The "Exporter's Declaration" on Form 7539 shall be amended to read as follows:

Transferor's Declaration

I, ———————————, one of the firm of ——————————, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it is to be transferred to Foreign-Trade Zone No. ——, located at ——————————— (City and State), for the sole purpose of exportation, destruction, or storage, and is not to be returned to Customs territory of the United States for domestic consumption. I further declare that, to the best of my knowledge and belief, the said merchandise is the same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by way of drawback or otherwise. (Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

(Transferor)

Date

§ 22.40 To whom payable.

The person named in the foreign-trade zone operator's receipt on the notice of transfer or the drawback entry, as the case may be, shall be held to be the transferor. The drawback shall be paid to the transferor or to the person to whom the transferor shall direct in writing that such drawback be paid. (Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c) **[TD 54022.]**

General Regulations Applicable to All Drawback Claims[17]

§ 22.41 Duties subject to drawback.

The duties subject to drawback include all ordinary Customs duties; dumping duties assessed under the Antidumping Act, 1921; countervailing duties assessed under section 303, Tariff Act of 1930; and marking duties assessed under section 304(c), Tariff Act of 1930, as amended. **[TDs 53336, 54022, 55978.]**

§ 22.42 Merchandise sold to United States Government.

In connection with each drawback entry, except under section 313(c), Tariff Act of 1930, the claimant shall furnish a certificate showing whether or not the merchandise concerned was sold to any department, branch, or agency of the United States Government. If the merchandise was so sold, drawback shall be allowed only when claimed by the department, branch, or agency of the

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[17] "Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise greater than that legally due thereon, shall be fined not more than $5,000 or imprisoned not more than two years, or both, and such merchandise or the value thereof shall be forfeited." (Pub. Law 772, 80th Cong.; 62 Stat. 683)

United States Government or when the entry is supported by a certificate signed by a proper officer of the department, branch, or agency concerned stating that the right to drawback was reserved by the supplier with the knowledge and consent of the said department, branch, or agency. A Government instrumentality operating with nonappropriated funds is not to be considered a Government agency within the meaning of this section. **[BCL 2708/50. TDs 31091, 31227, 52395, 52540, 52894, 53268, 54022.]**

§ 22.43 Verification of drawback claims.

(a) The first claim filed under a drawback rate shall be verified by the regional Regulatory Audit Division under the jurisdiction of the regional commission in whose region the claim is filed when the factory covered by the claim is also located in the same region. No subsequent claim for drawback shall be liquidated until the first claim for drawback has been verified. **[TDs 52894, 54022, 71-143, 76-119.]**

(b) If the claim is filed in one region and one or more of the factories covered by the claim is located in another region, the regional commissioner receiving the claim, in addition to taking the action required by paragraph (a) of this section, shall forward a copy of the claim and a copy of the relevant drawback statement and drawback rate, together with a request for verification, to the regional commissioners in whose regions the other factories are located.

(c) The verifying official shall verify the claim and material set forth in the related drawback statement. Similar action shall be taken upon receipt of the first drawback claim filed under an amendment of a drawback rate. Verification as to drawback rates and amendments shall include an examination of the manufacturing records and all other accounting and financial records relating to the transaction.

(d) In addition to taking any actions prescribed in this section, the regional commissioner shall refer drawback documents to the regional Regulatory Audit Division for verification at random or whenever he believes verification is required for the orderly and efficient administration of the drawback law and regulations. (R.S. 251, as amended, sec. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624)) **[TD 77-233.]**

§ 22.44 Protests.

The decision of the district director of Customs refusing to pay a drawback claim is final and conclusive upon all persons unless the person filing the drawback claim or his agent, within 90 days after but not before such decision, shall file a protest in writing with the district director in the manner required in the case of protests against the liquidation of import entries. (Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514) **[CD 317. TDs 52894, 54022, 70-181.]**

§ 22.45 Signing of documents; powers of attorney.

Power of attorney, in accordance with §§ 141.31 through 141.46, of this chapter, shall be required from persons signing the documents listed below in all cases where such person is not a member of the firm or is not the importer, manufacturer, or exporter, as the case may be. A power of attorney shall also be required when the person signing such a document for a corporation is not the president, vice president, treasurer, or secretary of the corporation. **[TDs 32708, 42229, 49865, 52177, 52894, 53268, 54022, 76-318.]**

Drawback entries.

Certificates of delivery.

Certificates of manufacture.

Abstracts of manufacturing records.

Statements of manufacturers or producers, supplemental statements, schedules, and supplemental schedules.

Statements of owners.

Endorsements of exporters on bills of lading or notices of exportation.

Authorization by manufacturer, producer, exporter, or agent to pay the drawback to another person.

Application of importer to export merchandise not conforming to sample or specifications.

Importers' acceptances of liquidations of import entries as final.

Protests.

§ 22.46 Retention of records.

All records required to be kept by the manufacturer or producer under this part of the regulations with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer, shall be retained for at least 3 years after payment of such claims. **[TD 54442.]**

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS—Abolished; TD 73-27

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Sec.
24.1 Collection of Customs duties, taxes, and other charges.
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24.73 Miscellaneous claims.

Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 501, 65 Stat. 290, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, 31 U.S.C. 483a, Gen. Hdnote. 11, Tariff Schedules of the United States, unless otherwise noted.

Source: 28 FR 14808, Dec. 31, 1963, unless otherwise noted.

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, and other charges: **[TDs 45344, 51278, 53303, 55642.]**

(1) Any form of United States currency or coin legally current at time of acceptance shall be accepted.

(2) Any bank draft, cashier's check, or certified check drawn on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such draft or checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted.

(3) An uncertified check drawn by an interested party on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depositary shall be accepted if there is on file with the district director an entry bond or other bond to secure the payment of the duties, taxes, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by the district director to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

(4) A U.S. Government check endorsed by the payee to the U.S. Customs Service, a domestic traveler's check, or a U.S. postal, bank, express, or telegraph money order shall be accepted. Before accepting this form of payment the Customs cashier or other employee authorized to receive Customs collections shall require such identification in the way of a current driver's license issued by a state of the United States, or a current passport properly authenticated by the Department of State, or a current credit card issued by one of the numerous travel agencies or clubs, or other credit data, etc., from which he can verify the identity and signature of the person tendering such check or money order. **[TD 67-134.]**

(5) The face amount of a bank draft, cashier's check, certified check, or uncertified check tendered in accordance with this paragraph shall not exceed the amount due by more than $1 and any required change is authorized to be made out of any available cash funds on hand.

(6) The face amount of a U.S. Government check, traveler's check, or money order tendered in accordance with this paragraph shall not exceed the amount due by more than $50 and any required change is authorized to be made out of any available cash funds on hand. **[TD 73-103.]**

(b) At piers, terminals, bridges, airports, and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States, shall be accepted by inspectors of Customs and other Customs employees authorized to receive Customs collections in payment of duties, taxes, and other charges on noncommercial importations subject to the identification requirements of subparagraph (4) of paragraph (a) of this section. However, a personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such inspectors of Customs and other Customs employees shall be subject to the following conditions: **[TDs 53860, 53959, 55642.]**

(1) Where the amount is less than $100 and the identification requirements of subparagraph (4) of paragraph (a) of this section have been met, the Customs employee accepting the check or money order shall show his name and badge number on the collection voucher and on the reverse side of the check or money order as well as the serial number of the voucher or other form of voucher identification so that the check or money order can be easily associated with the voucher. This information shall be shown immediately above the space where the endorsement stamp will be placed. **[TD 67-134.]**

(2) Where the amount is $100 or more, in addition to the requirements of subparagraph (1) of this paragraph the

Customs employee accepting the check or money order shall obtain the approval of the Customs officer in charge who also shall personally verify the identification data and indicate his approval by initialing the collection voucher below the signature of the Customs employee who approved the receipt of the check or money order.

(3) A personal check tendered in accordance with this paragraph shall be accepted only when drawn for the amount of the duties, taxes, and other charges to be paid by such check.

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted. **[TDs 53339, 55642.]**

(d) Checks and other negotiable papers covering duties, taxes, and other Customs charges shall be made payable to the United States Customs Service. (R.S. 3009, 3473, as amended, sec. 1, 36 Stat. 965, as amended, sec. 648, 46 Stat. 762; 19 U.S.C. 197, 198, 1648) **[TD 67-134.]**

§ 24.2 Persons authorized to receive Customs collections.

District directors in charge of ports of entry, Customs cashiers, Customs inspectors, Customs dock tellers, and such other officers and employees as the district director shall designate shall receive Customs collections.

§ 24.3 Bills and accounts; receipts.

(a) Any bill or account for money due the United States shall be rendered by an authorized Customs officer or employee on an official form.

(b) A receipt for the payment of estimated Customs duties shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment. **[TDs 74-73, 79-221.]**

(c) A copy of a Customs bill validated as paid will not normally be provided a payer. If a bill is paid by check, the copy of the Customs bill identified as "Payer's Copy" and the payer's cancelled check shall constitute evidence of such payment to Customs. Should a payer desire evidence of receipt, both the "U.S. Customs Service Copy" and the "Payer's Copy" of the bill and, in the case of payments by mail, a stamped, self-addressed envelope, shall be submitted. The "Payer's Copy" of the bill shall then be marked paid by the appropriate Customs official and returned to the payer. **[TDs 53339, 53897, 74-73.]**

(d) Every payment which is not made in person shall be accompanied by the original bill or by a communication containing sufficient information to identify the account or accounts to which it is to be applied.

(e) A bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor. **[TD 54712.]**

§ 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.

(a) *Application to defer.* An importer, including a transferee of alcoholic beverages in a Customs bonded warehouse who wishes to pay on a semi-monthly basis the estimated import taxes on alcoholic beverages entered, or withdrawn from warehouse, for consumption by him during such a period may apply by letter to the district director of each district in which he wishes to defer payment. If the importer desires the additional privilege of depositing estimated tax payments on an extended deferred basis, it must be specifically requested. The application must identify the ports at which the importer wishes to use the tax deferral procedure. An importer who receives approval from a district director to defer such payments may, however, continue to pay the estimated import taxes due at the time of entry, or withdrawal from warehouse, for consumption. **[TDs 55568, 56510.]**

(b) *Deferred payment periods.* A period shall commence on October 24 and run through October 31, 1965; thereafter the periods shall run from the 1st day of each month through the 15th day of that month, and from the 16th day of each month through the last day of that month. An importer may begin the deferral of payments of estimated tax in a Customs district in the first deferral period beginning after the date of the written approval by the district director of such district. An importer may in such district use the deferred payment system until the district director advises such importer that he is no longer eligible to defer the payment of such taxes. **[TD 55568, 56510.]**

(c) *Content of application and supporting documents.* (1) An importer must state his estimate of the largest amount of taxes to be deferred in any semimonthly period based on the largest amount of import taxes on alcoholic beverages deposited in that district in such a period during the year preceding his application. He must also identify any existing bond or bonds that he has on file in the district and the port or ports for which filed and shall submit in support of his application the approval of the surety on his bond or bonds to the use of the procedure and to the increase of such bond or bonds to such larger amount or amounts as may be found necessary by the district director. He must identify in his application all ports in the district where he intends to file entries or withdrawals from warehouse for consumption for which taxes are to be deferred. **[TD 55568.]**

(2) Each application must include a declaration in substantially the following language:

> I declare that I am not presently barred by a district director in any other district from using the deferred payment procedure for payment of estimated taxes upon imports of alcoholic beverages, and that if I am notified by a district director to such effect I shall advise the district director of all other districts where approval has been given to me to use such procedure.

(d) *Use of deferred payment method.*

(1) The district director will notify the importer, or his authorized agent if requested, of approval and will at the same time notify all ports in his district at which the procedure will be used according to the importer's application. **[TD 55568.]**

(2) An importer who has received approval to make deferred payments retains the option of deferring or depositing the estimated tax on imported alcoholic beverages until the entry or withdrawal is presented to the cashier for payment of estimated duties. At the time the importer presents his entry or withdrawal for consumption to the cashier together with the estimated duty, he must either pay the estimated tax or indicate on the entry or withdrawal that he elects to defer the tax payment. **[TD 67-33.]**

(e) *Tax deferment procedure.* If the importer elects to defer the tax payments, he shall enter on each copy of the entry or withdrawal the words "Tax Payment Deferred," adjacent to the amount shown on the documents as estimated taxes, before presentation to the cashier. **[TDs 55568, 67-33.]**

(f) *Payment procedure*—(1) *Billing.* Each importer who has deferred tax payments on imported alcoholic beverages will be billed on Customs Form 6084, United States Customs Service Bill, at the end of each tax deferred period for all taxes deferred during the period. Each bill will identify each tax amount deferred and the related entry numbers. These bills must be paid in fully by the last day of the next succeeding deferral period. **[TDs 55568, 56510, 67-33, 72-53, 75-278.]**

(2) *Interest on overdue accounts.* When any bill for deferred taxes is not paid within the period specified in subparagraph (f)(1) of this section, interest thereon from the date following the end of the specified period to the date of payment of the bill shall be assessed, collected, and paid in the same manner as the basic tax. The rate of interest to be assessed shall be 7 percent per annum or such other rate as is established by the Secretary of the Treasury or his delegate in accordance with 26 U.S.C. 6621(b). **[TD 76-258.]**

(g) *Restrictions on deferring tax deposits.* An importer may not on one entry, or withdrawal from warehouse for consumption, deposit part of the estimated tax and defer the balance of the tax. The estimated tax on each entry or withdrawal must be either fully paid or deferred. **[TDs 56510, 55568, 67-33.]**

(h) *Termination of deferred payment privilege.* (1) When any bill on Customs Form 6084 for deferred taxes is not paid within the period specified in paragraph (f) of this section, a demand for payment shall be made to the surety on the importer's bond. If in the opinion of the customs officer concerned such failure to make timely payment of estimated deferred taxes warrants the withdrawal of the tax deferral privilege, he will advise the importer of the withdrawal of such privilege. In all instances of failure to pay timely the deferred taxes on alcoholic beverages withdrawn from warehouse for consumption, further withdrawals from the warehouse entry on which the tax is delinquent will be refused until payment is made of the amount delinquent. **[TDs 55568, 67-33, 75-278.]**

(2) The termination in any district of the tax deferral privilege for failure to pay timely any deferred estimated tax shall be at the discretion of the Customs officer concerned. Termination of the privilege for any other reason shall be subject to the approval of the Commissioner of Customs. Notice of termination of the tax deferral privilege in any district will be disseminated to all other Customs districts. **[TD 67-33.]**

(3) Renewal of the tax deferral privilege after it has been withdrawn in any district may be made only upon approval of the Commissioner of Customs. **[TD 67-33.]**

(i) *Renewal of importer's bond.* At the time of each renewal of a Customs bond to which has been added a stipulation as to deferred tax payment, concurred in by the surety, the parties shall indicate in writing their agreement to the continuation of the stipulation for the term of the renewal. **[TD 55568.]**

(j) *Entries for consumption or warehouse after an importer is delinquent.* An importer who is delinquent in paying deferred taxes may make entries for consumption or for warehousing, or withdrawals for consumption from warehouse entries on which no delinquency exists, upon deposit of all estimated duties or taxes. **[TD 55568.]**

(k) *Rate of tax.* The estimated taxes must be paid on the basis of the rates in effect upon entry, or withdrawal from warehouse, for consumption, unless in accordance with section 315 of the Tariff Act of 1930, as amended, another date is applicable and not on the basis of the rates of tax in effect on the date deferred payment is made. (R.S. 251, as amended, sec. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624); sec. 201, 72 Stat. 1322, 1334, 1335, 68A Stat. 917; 26 U.S.C. 5007, 5054, 5061, 7805) **[TDs 55568, 72-53.]**

§ 24.5 Filing identification number.

(a) *Generally.* Each person, business firm, Government agency, or other organization shall file Customs Form 5106, Notification of Importer's Number or Application for Importer's Number, or Notice of Change of Name or Address, with the first formal entry which is submitted or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. A Customs Form 5106 shall also be filed for the ultimate consignee for which such entry is being made. Customs Form 5106 may be obtained from any Customs Office. **[TDs 67-33, 67-71, 72-106, 72-150, 74-72, 78-7.]**

(b) *Preparation of Customs Form 5106.* (1) The identification number to be used when filing Customs Form 5106 shall be:

(i) The Internal Revenue Service employer identification number, or

(ii) If no Internal Revenue Service employer identification number has been assigned, the Social Security number.

(2) If neither an Internal Revenue Service employer identification number nor a Social Security number has been assigned, the word "None" shall be written on the line provided for each of these numbers on Customs Form 5106 and the form shall be filed in duplicate.

(c) *Assignment of importer identification number.* Upon receipt of a Customs Form 5106 without an Internal Revenue Service employer identification number or a Social Security number, an importer identification number shall be assigned and entered on the Customs Form 5106 by the Customs office where the entry or request for services is received. The duplicate copy of the form shall be returned to the filing party. This identification number shall be used in all future Customs transactions when an importer number is required. If an Internal Revenue Service employer identification number, a Social Security number, or both, are obtained after an importer number has been assigned by Customs, a new Customs Form 5106 shall not be filed unless requested by Customs.

(d) *Optional additional identification.* Customs Form 5106 contains blocks for a two-digit suffix code which may be written in as an addition to the Internal Revenue Service employer identification number to provide optional additional identification. The two-digit suffix code may be used by a business firm having branch office operations to permit the firm to identify transactions originating in its branch offices, or by vessel owners to permit them to identify transactions associated with particular vessels. A separate Customs Form 5106 shall be required to report the specific suffix code and the name and address for each branch office or vessel to be identified. Transactions may be associated with a specific branch office or vessel by reporting the appropriate identification number, including the two-digit suffix code, on the Entry Record, Customs Form 5101, or the request for services. Suffix codes may be either numeric, alphabetic, or a combination of both numeric and alphabetic, except that the letters O, Z, and I may not be used. The blocks may be left blank if the firm or vessel owner has no use for them and a "00" suffix will be automatically assigned.

(e) *Retention of importer identification number.* An importer identification number shall remain on file until 1 year from the date on which it is last used on Customs Form 5101 or a request for services. If not used for 1 year and there is no outstanding transaction to which it must be associated, the importer identification number will be removed from Customs files. To engage in future transactions described in paragraph (a) of this section, the person, business firm, Government agency, or other organization, previously covered by an importer identification number, must file another Customs Form 5106.

§ 24.11 Increased or additional duties or taxes; notice to importer.

(a) Any increased or additional duties or taxes found due upon liquidation shall be billed to the importer of record or to the actual owner when there shall have been filed: **[TDs 37919, (55), 45951, 52403, 67-33.]**

(1) A declaration of the actual owner on Customs Form 3347 in accordance with section 485(d), Tariff Act of 1930, and the regulations in this part; and

(2) The superseding bond of the actual owner on Customs Form 7601, as provided for in §§ 141.20 and 113.14(u) of this chapter. **[TDs 53399, 54021, 73-175, 74-227.]**

(b) In any case in which a timely owner's declaration, but not a timely superseding bond, has been filed, and the district director is of the opinion that because of special circumstances the collection of the increased or additional duties should be effected under the timely owner's declaration, he shall report the facts to Headquarters, U.S. Customs Service and await instructions. (Secs. 483, 485(d), 46 Stat. 721, 724; 19 U.S.C. 1483, 1485(d))

§ 24.12 Customs fees; charges for storage.

(a) The following schedule of fees prescribed by law or hereafter in this paragraph shall be made available to the public at all Customs offices. When payment of such fee is received by a Customs employee a receipt therefor shall be issued. **[TDs 51665, 52980, 53385, 53699, 53915, 54101, 54713, 54876, 55153, 55466, 55893, 56251, 56393, 66-36, 69-266.]**

(1) A Customs fee in the amount indicated shall be collected for each application for the following actions whether the action requested is granted or denied: **[TDs 55801, 56107, 56393, 73-140, 74-200.]**

(i) [Reserved]

(ii) [Reserved]

(iii) Establishment of a customs bonded warehouse, $80. (See § 19.2 of this chapter.)

The fee in subdivision (iii) of this subparagraph shall be assessed and collected for an application requesting the initial establishment of a Customs bonded warehouse or for the rebonding of a warehouse after its discontinuance. Such fee shall not be collected for action in connection with the discontinuance or alteration of a Customs bonded warehouse or the reactivation of such a warehouse after its temporary suspension.

(2) Unless otherwise prescribed by law, a fee of 20 cents shall be collected for each official certification.

(3) A Customs fee shall be collected for furnishing the names and addresses of importers of merchandise appearing to infringe a registered patent. This information will be furnished for a 2-month period at the fee of $1,000; a 4-month period at the fee of $1,500; or a 6-month period at the fee of $2,000. (See § 12.39a of this chapter.) **[TDs 54087, 55466, 56137.]**

(b) [Reserved]

(c) The rates charged for storage in Government-owned or rented buildings shall not be less than the charges made at the port by commercial concerns for the storage and handling of merchandise. Except as to an examination package covered by an application for an entry by appraisement, storage shall be charged on any examination package for any period it remains in the appraiser's store after 2 full working days following the day on which the permit to release or transfer was issued. As to an examination package covered by an application for an entry by appraisement, storage shall be charged for any period it remains in the appraiser's store after 2 full working days following the day of issuance to the importer of oral or written notice of the amount of duties or taxes required to be deposited or that the package is ready for delivery. If the district director finds that circumstances make it impractical to remove examination packages from the appraiser's store within the 2-day period, he may extend the period for not to exceed 3 additional working days, without storage charges. In computing the 2 working days, and any authorized extension, (1) the day on which the permit to release or transfer is issued, or the day on which the notice is issued of the amount of duties or taxes that shall be deposited or that the package is ready for delivery, whichever is applicable, (2) Saturdays, (3) Sundays, and (4) National holidays, shall be excluded. (Sec. 501, 65 Stat. 290, R.S. 2654, as amended, sec. 524, 46 Stat. 741, as amended; 19 U.S.C. 58, 1524, 31 U.S.C. 483a, 46 U.S.C. 333, 927) **[FACL 93/42; TDs 50995, 51730, 52866, 55893, 56251, 56398.]**

§ 24.13 Car, compartment, and package seals; kind, procurement.

(a) Customs seals accepted pursuant to § 24.13a of this chapter shall be used in sealing openings, packages, conveyances, or articles requiring the security provided by such sealing. **[TDs 48235, 54808, 55350, 55769, 67-281, 68-136, 81-185.]**

(b) Red in-bond and high security red in-bond seals used for sealing imported merchandise shipped between ports in the United States shall be stamped "U.S. Customs in Bond." Green seals used by Canadian Customs officer to seal railroad cars moving in bond through the United States between Canadian ports as provided in § 123.33 of this chapter shall be stamped [Can. Customs] [U.S. Transit], and uncolored seals used to seal containers of commercial traveler's samples transiting the United States as provided by § 123.52 of this chapter shall be stamped "Canada-United States Customs." Blue in-transit seals used to seal merchandise transiting foreign territory or waters between ports in the United States as provided in § 123.24 of this chapter shall be stamped "U.S. Customs In-Transit." Yellow in-transit seals used on rail shipments of merchandise and on containers of commercial traveler's samples transiting Canada between U.S. ports as provided in § § 123.24 and 123.51 of this chapter shall be stamped [U.S. Customs] [Can. Transit] for use on railroad cars, and "United States-Canada Customs" for use on samples. Uncolored seals used for Customs purposes other than for (1) shipping in bond, (2) shipping by other than a bonded common carrier in accordance with section 553, Tariff Act of 1930, as amended, or (3) shipping in transit shall be stamped "U.S. Customs." All seals (except uncolored in-transit seals on containers of commercial traveler's samples and seals for use on airline liquor kits) shall be stamped with the name of the port for which they are ordered. Each strap seal shall be stamped with a serial number. Each automatic metal seal shall be stamped with a symbol number and, when required, with a serial number. **[TDs 50999, 52984, 53057, 53690, 54113, 55203, 67-281, 68-136, 70-121, 75-65, 77-30, 77-160.]**

(c) Carriers of merchandise or their commercial associations or comparable representatives approved by the district director of Customs (see paragraph (f) of this section) shall manufacture or purchase quantity supplies of in-bond and in-transit seals accepted by Customs pursuant to the provisions of § 24.13a of this chapter. The order shall be prepared by the purchaser and, except as hereinafter noted, shall be confined to seals for use at one port and shall specify the kind and quantity of seals desired, the name of the port at which they are to be used, and the name and address of the consignee to whom they are to be shipped. Seals for use on airline liquor kits need not specify the name of the port at which they are to be used, and orders for such seals need not be confined to seals for use at one port. Carriers may purchase small emergency supplies of in-bond and in-transit seals from district directors, who will keep a supply of such seals for this purpose. An order for green or uncolored in-transit seals shall be submitted to the office of the Director of Customs-Excise Inspection, Ottowa, Canada, for approval and forwarding to the manufacturer. An order for green strap-in bond seals for use on railroad cars must stipulate that the seals are to be consigned to the collector of customs and excise in Canada at the port indicated on the seals for entry purposes and storage under Customs lock and key. **[TDs 52984, 53057, 53690, 54113, 54808, 55203, 67-281, 68-136, 75-65, 81-185.]**

(d) The manufacturer or supplier shall ship the seals to the consignee named in the order and shall advise the district director for the Customs district to which the seals are shipped as to the kind and quantity of seals shipped, the name of the port (where required), serial numbers, and symbol number (where required) stamped thereon, the name and address of the consignee, and the date of shipment. **[TDs 54808, 68-136, 75-65, 81-185.]**

(e) [Reserved]

(f) In-bond seals may be purchased only by a Customs bonded carrier, by a nonbonded carrier permitted to transport articles in accordance with section 553 of the Tariff Act of 1930, as amended (19 U.S.C. 1553), or in the case of red in-bond and high security red in-bond seals, by the carrier's commercial association or comparable representative approved by the district director. In-transit seals may be purchased by a bonded or other carrier of merchandise or, in the case of blue in-transit seals, by the carrier's commercial association or comparable representative approved by the district director. Except for uncolored in-transit seals, uncolored Customs seals may not be purchased by private interests and shall be furnished by district directors for authorized use without charge. In-bond and in-transit seals sold by district directors shall be charged for at the rate of 10 cents per seal, except for high security red in-bond seals which shall be charged for at the current manufacturer's list price for the quantity purchased. (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).) **[TDs 50053, 50999, 54752, 54808, 55203, 77-30.]**

§ 24.13a Car, compartment, and package seals; and fastenings; standards; acceptance by Customs.

(a) *General standards.* The seals and fastenings, together, shall

(1) Be strong and durable;

(2) Be capable of being affixed easily and quickly;

(3) Be capable of being checked readily and identified by unique marks (such as a logotype) and numbers;

(4) Not permit removal or undoing without breaking, or tampering without leaving traces;

(5) Not permit use more than once; and

(6) Be made as difficult as possible to copy or counterfeit.

(b) *Seal specifications.* (1) The shape and size of the seal shall be such that any identifying marks are readily legible.

(2) Each eyelet in a seal shall be of a size corresponding to that of the fastening used, and shall be positioned so that the fastening will be held firmly in place when the seal is closed.

(3) The material used shall be sufficiently strong to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering under normal usage.

(4) The material used shall be selected with reference to the sealing system used.

(c) *Fastening specifications.* (1) The fastening shall be strong and durable and resistant to weather and corrosion.

(2) The length of the fastening used shall not enable a sealed aperture to be opened or partly opened without the seal or fastening being broken or otherwise showing obvious damage.

(3) The material used shall be selected with reference to the sealing system used.

(d) *Identification marks.* (1) If the seal is to be purchased and used by U.S. Customs, the seal or fastening, as appropriate, shall be marked to show that it is a U.S. Customs seal by application of the words "U.S. Customs" and a unique identification number on the seal.

(2) If the seal is to be used by private industry (i.e., a shipper, manufacturer, or carrier), it must be clearly and legibly marked with a unique company name (or logotype) and identification number.

(e) *Customs acceptance.* Seals will be considered as acceptable for use and/or purchase by U.S. Customs as soon as the manufacturer attests that the seals have been tested and meet or exceed the standards provided in paragraphs (a) through (d) of this section, and will continue to be considered acceptable until such time as it is demonstrated that they do not meet the standards. A manufacturer may attest to the qualification of a specific seal, or to an entire product line of seals as of a certain date. Any addition of a seal to a group of seals attested to as a group would require specific acceptance of the seal by Customs.

(f) *Testing.* All testing of seals deemed necessary before Customs acceptance will be done by the manufacturer or by a private laboratory, and not by Customs. However, Customs reserves the right to test, or to have tested, seals that have been accepted by Customs.

(g) *Records.* The manufacturer's attestation that a seal meets or exceeds the standards specified in this section and, if deemed necessary by Customs, the seal test record shall be sent to the Director, Office of Inspection, Cargo Processing Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington D.C. 20229. **[TD 68-136, 81-185.]**

§ 24.14 Salable Customs forms.

(a) Customs forms for sale to the general public shall be designated by the Commissioner of Customs, or his delegate. Customs forms which are designated as salable shall meet the following conditions: (1) The form is distributed to private parties for use in completing customs transactions; (2) the quantity used nationwide annually is sufficient to justify the administrative costs involved in selling the form and accounting for the collections involved therein, or the form is primarily for the use of a special group; (3) distribution is or can generally be made in lots of 100 or more; (4) the form is normally distributed to commercial concerns (customhouse brokers, freight forwarders, vessel agents, carriers, regular commercial importers, etc.) rather than to or for the use of individuals or others (tourists, churches, schools, occasional importers, etc.) for noncommercial purposes. **[TDs 44695, 52732, 54198, 55238, 75-132.]**

(b) The price of each salable Customs form shall be established by the Commissioner of Customs, or his delegate, and shall be adjusted periodically as the varying costs of printing and distribution require. A list of salable customs forms showing the price at which each is sold shall be prominently posted in each customhouse in a location accessible to the general public. **[TD 75-132.]**

(c) Customs forms for sale to the general public, except unusually large or otherwise unsuitable forms, shall normally be prepared in units containing 100 copies. If a completely prepared bill or receipt is presented by the purchaser at the time of the purchase, the district director's paid stamp shall be impressed thereon; otherwise, no receipt shall be given. (Sec. 1, 37 Stat. 434; 19 U.S.C. 1)

§ 24.16 Overtime services; overtime compensation; rate of compensation.

(a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267),[3] or section 451, Tariff Act of 1930, as amended[4] (19 U.S.C. 1451), shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451, or section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Reimbursements of overtime compensation shall be collected by the district director from the applicants for the services. Customs employees shall not receive overtime compensation for services performed on regular tours of duty at night, but no regular tour of duty shall embrace any part of a Sunday or holiday if the services performed are such that extra compensation would be payable if performed at the request of a private interest. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a timely application therefor during regular hours of business when the need for the services can reasonably by foreseen, nor in any case until the maximum probable reimbursement is adequately secured. **[257 US 506; TDs 36290, 39331, 49117, 49658, 53626; 51149, 77-35.]**

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[3] "The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of inspectors, storekeepers, weighers, and other customs officers and employees who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform services in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, such rates to be fixed on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian), and two additional days' pay for Sunday or holiday duty. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance whenever such special license or permit for immediate lading or unlading or for lading or unlading at night or on Sundays or holidays shall be granted to the collector of customs, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed therefor by the Secretary of the Treasury. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual lading, unlading, receiving, delivery, or examination takes place or not. In those ports where customary working hours are other than those hereinabove mentioned, the collector of customs is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for customs employees or the overtime pay herein fixed." (19 U.S.C. 267)

[4] "Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the Act of February 13, 1911, as amended (U.S.C., 1952 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of such vessels or vehicles for a period not to exceed one year. Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the collector shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services deposits sufficient money to pay, or gives a bond in an amount to be fixed by the collector, conditioned to pay the compensation and expenses of such customs officers and employees, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to duty in connection with lading or unlading at night or on Sunday or a holiday. Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sundays or holidays when such assignments are in the public interest: *Provided,* That the provisions of this section, sections 450 and 452 of this Act, and the provisions of section 5 of the Act of February 13, 1911, as amended (U.S.C., title 19, sec. 267), insofar as such section 5 requires payment of compensation by the master, owner, agent, or consignee of a vessel or conveyance, shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. At ports of entry and customs stations where any merchandise, baggage, or persons shall arrive in or depart from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, the collector, under such regulations as the Secretary of the Treasury may prescribe, shall assign customs officers and employees to duty at such times during the twenty-four hours of each day, including Sundays and holidays, as the Secretary of the Treasury in his discretion may determine to be necessary to facilitate the inspection and passage of such merchandise, baggage, or persons. Officers and employees assigned to such duty at night or on Sunday or a holiday shall be paid compensation in accordance with existing law as interpreted by the United States Supreme Court in the case of the United States v. Howard C. Myers (320 U.S.C. 561); but all compensation payable to such customs officers and employees shall be paid by the United States without requiring any license, bond, obligation, financial undertaking, or payment in connection therewith on the part of any owner, operator, or agent of any such highway vehicle, bridge, tunnel, or ferry, or other person. As used in this section, the term "ferry" shall mean a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as above provided." (Tariff Act of 1930, sec. 451, as amended; 19 U.S.C. 1451)

(b) *Night, Sunday, and holiday defined.* For the purposes of this section the word "night" shall mean the time between 5 p.m. of any day and 8 a.m. of the following day, or between the corresponding hours at ports or stations where regular hours for the transaction of the general class of Customs business involved other than those from 8 a.m. to 5 p.m. have been established to agree with local prevailing working hours, but shall not include any such time within the 24 hours of a Sunday or holiday. The night hours at the end of the regular workday immediately preceding a Sunday or holiday and the night hours at the beginning of the next regular workday shall be considered for the purposes of this section as parts of a single night. For such purpose the term "holiday" shall include only days on which Customs employees generally are not required to work and which are usually observed as national holidays.[5] The time accounted for as overtime shall be computed on the basis of the regular hours for the performance of the particular work of the assignment, even though such hours differ from the regular working hours of the employee assigned,[5a] but no extra compen-

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[5] The days usually observed as national holidays are: January 1, February 22, May 30, July 4, the first Monday in September, November 11, Thanksgiving Day, and December 25.

[5a] For example: At a port where the regular hours of business have been fixed at 8 a.m. to 4 p.m. for the inside force and 7 a.m. to 4 p.m. for the outside force, a clerk whose regular working hours are 8 a.m. to 4 p.m. is not entitled to reimbursable extra compensation if assigned to inspectional work from 7 a.m. to 8 a.m. on a week day, since he works within the regular hours for the service to which he is assigned.

sation shall be paid pursuant to this section for any services performed by an employee at his regular post or elsewhere during a regular tour of duty of such employee. **[TD 51330.]**

(c) *Application and bond.* (1) Except as provided for in subparagraphs (2) and (4) of this paragraph, an application for services of Customs employees at night or on a Sunday or holiday, Customs Form 3171, supported by the required cash deposit or bond, shall be filed in the office of the district director of Customs before the assignment of such employees for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the district director or his authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the Customs employees, or the maximum amount which may be charged by law, whichever is less, in connection with the particular services requested. The bond to secure reimbursement shall be on Customs Form 7597 or 7599 and in an amount to be fixed by the district director, unless another bond containing a provisions to secure reimbursement is on file. A bond given on Customs Form 7597 to secure the payment of overtime services rendered private aircraft and private vessels shall be taken without surety or cash deposit in lieu of surety, and the bond shall be modified to so indicate. **[TDs 51740, 53626, 55386, 68-247, 70-201, 77-35.]**

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the district director of Customs may designate a Customs employee to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. In each such case the assignment to perform services shall be conditional upon the receipt of the appropriate application and security. Where the security is a cash deposit, the receipt may be properly inscribed to make it serve as a combined receipt for cash deposit in lieu of bond and request for overtime services, in lieu of filing a request for overtime services on Customs Form 3171. **[TDs 56106, 67-33, 68-247.]**

Request for Overtime Services

Permit Number______________________________

I hereby request overtime services on ——————, 19—, at —— a.m., p.m., in connection with the entry of my aircraft (vessel).

____

(Pilot, Owner, or Person in Charge)

(3) An application on Customs Form 3171 for overtime services of Customs employees, when supported by the required cash deposit or bond on Customs Form 7599, may be granted for a period not longer than for 1 year nor longer than the period of the supporting bond. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper Customs officer will be timely notified during official hours in advance of the services requested as to the exact times that the services will be needed. **[TDs 68-247, 77-35.]**

(4) Inspectional services will be provided to owners or operators of aircraft without charge for overtime on Sundays and holidays between the hours of 8:00 a.m. and 5:00 p.m. Applications for inspectional services for aircraft during those hours shall be filed as set forth in subparagraph (1) of this paragraph, but without cash deposit or bond. **[TD 77-35.]**

(d) *Assignment.* Customs employees may be ordered to report for any overtime duty sufficiently in advance of the time specified by the applicant to avoid unnecessary delay, but in no case more than 1 hour in advance of the time so specified unless the specified time is subject to change without reasonable notice as in the case of some aircraft arrivals. If no time can be specified for the services to begin, the employees required and available shall be assigned to the overtime duty as soon as practicable. Customs employees shall not be deemed available to perform reimbursable overtime services at night unless the total time of service, including waiting time, will be at least one hour, but nothing in this section shall prohibit the district director or other administrative officer from requiring an employee to perform, before he leaves his duty status and without extra compensation under the act of February 13, 1911, as amended, any work which is pending at the beginning of the night and can be completed in less than 1 hour. No Customs employee shall be assigned on a weekday, or for more than an aggregate of 8 hours on a Sunday or holiday, to any overtime service for which nonreimbursable extra compensation is payable, except under special authorization from the Commissioner of Customs.

(e) *Nonperformance of requested services.* If services which have been requested and for which employees have reported are not performed by reason of circumstances beyond the control of the employees concerned, extra compensation shall be paid and collected on the same basis as though the services had actually been performed during the period between the time the employees were ordered to report for duty and did so report and the time they were notified that their services would not be required, and in any case as though actual performance had continued for at least 1 hour.

(f) *Broken periods.* When overtime services at night or on a Sunday or holiday are rendered in broken periods, the actual time each assignment began and ended shall be reported. Overtime services rendered in such broken periods shall be treated as though the services had been continuous except when the total of the compensation computed separately for each such period in accordance with the provisions of paragraphs (g) and (h) of this section is less than when computed as though the services had been considered continuous. For purposes of computing compensation, each time an employee is assigned and reports for overtime duty on a weekday or on a Sunday or holiday constitutes a separate broken period even though no services, or services of less than 1 hour, are actually rendered on such assignment. In no case shall any employee be entitled to receive more than 2 1/2 days' pay by reason of the fact that he is given two or more assignments during one night. **[TD 70-253.]**

(g) *Rate for night service.* The reasonable rate of extra compensation for authorized overtime services performed by Customs employees at night on any weekday is hereby fixed at one-half of the gross daily rate of the regular pay of the employee who performs the service for each 2 hours of compensable time, any fraction of 2 hours amounting to at least 1 hour to be counted as 2 hours. The compensable time shall be the period between the beginning of the night and the conclusion of the services if the employee is assigned and reports for duty before the expiration of the first 4 hours of the night; the period between the time the employee is assigned and reports for duty and the conclusion of the services, plus 4 hours, if the time of assignment is after the expiration of the first 4 and before the beginning of the last 2 hours of the night; or 2 hours if the employee is assigned and reports for duty 2 hours or less before the end of the night. However, if an employee performs Sunday or holiday services which are in continuation of an assignment to overtime services begun during the last 2 night hours at the end of the regular workday preceding such Sunday or holiday, the compensable time for the overtime services preceding the Sunday or holiday shall be 2 hours; or if an employee performs overtime services during the night hours at the beginning of the next regular workday following a Sunday or holiday which overtime services are in continuation of an assignment begun on the Sunday or holiday immediately preceding such regular workday, the compensable time for the overtime services following such Sunday or holiday shall be the period between midnight of such Sunday or holiday and the conclusion of the overtime services. The compensable time for overtime service performed by a customs employee assigned to a regular tour of duty covering any part of a night shall be computed in accordance with this night rate as though the beginning of the regular tour of duty of such employee marked the end of a night period and the close of such tour marked the beginning of another night period, but extra compensation is not payable in accordance with this section for overtime services performed by any Customs employee on a regular workday during other than the night hours of the port or station. The total extra compensation paid pursuant to this section to a Customs employee for overtime services performed during one night shall not exceed 2 1/2 times the gross daily rate of his regular pay. **[TD 52903.]**

(h) *Rate for Sunday or holiday service.* The reasonable rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service for any and all services totaling an aggregate of not more than 8 hours during the 24 hours from midnight to midnight of the Sunday or holiday, including actual waiting time and time required for travel between posts of duty but not including any periods for meals or other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of 8 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of 8 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a weekday, the time between the completion of the aggregate of 8 hours and midnight being considered as the hours of a night.

(i) *Part-time employees.* The extra compensation for overtime services performed by a permanent part-time employee at night or on a Sunday or holiday shall be computed on the basis of the gross daily rate of regular pay the part-time employee would receive for full-time service in the position held by him. Customs employees who are paid on a per-diem-when-employed basis shall be paid the overtime rate but not the per-diem rate when assigned to perform overtime services on a Sunday or holiday.

(j) *Proration of charges*—(1) *General.* If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributed to the services performed for each applicant. For the purpose of this paragraph the Government shall be considered the applicant for nonreimbursable overtime services. **[TD 67-166.]**

(2) *Aircraft.* When any services performed by Customs employees for two or more applicants during the 24-hour period of a Sunday or holiday or during the night hours of 5 p.m. of any day to 8 a.m. of the following day cannot be readily attributed on a time basis to specific aircraft in the judgment of the district director having Customs supervision of the airport, the total charge of the overtime compensation for such services during the entire period of the Sunday, holiday, or night hours shall be prorated to the aircraft receiving such services during each such period on the following basis:

(i) Five percent of such total Customs overtime charge for the period shall be distributed equally among the operators of the aircraft.

(ii) Ten percent of such total Customs overtime charge for the period shall be distributed among the operators of the aircraft proportionally as the number of entrances and clearances made by each aircraft operator requiring Customs service bears to the total number of entrances and clearances serviced during the period.

(iii) Eighty-five percent of such total Customs overtime charge for the period shall be distributed among the operators of the aircraft proportionally as the number of passengers and/or crew serviced for each aircraft operator bears to the total number of passengers and/or crew serviced during the period.

This proration formula shall apply only to overtime services rendered aircraft carrying cargo and/or passengers for hire and in no case shall the prorated charge to an aircraft operator be more than the charge would have been had the services been rendered as a separate assignment for the aircraft operator.

(k) *Participation in overtime work.* In general, services for which extra compensation is payable in accordance with this section, or for which reimbursement is require in accordance with § 24.17, shall be performed by employees who are regularly assigned to perform the same class of work during their regular tours of duty, but when the district director or other administrative field officer concerned finds that the needs of the service so require he is hereby authorized to assign any other available and competent employee to perform such services and such employees while so assigned shall be deemed acting inspectors, acting Customs warehouse officers, etc., as the case may be. (Sec. 5, 36 Stat. 901, as amended, secs. 450, 451, 452, 46 Stat. 715, as amended, secs. 6, 623, 49 Stat. 1385, as amended; 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 382b)

§ 24.17 Other services of officers; reimbursable.

(a) Amounts of compensation and expenses chargeable to parties-in-interest in connection with services rendered by Customs officers or employees during regular hours of duty or on Customs overtime assignments (19 U.S.C. 267, 1451), under one or more of the following circumstances shall be collected from such parties-in-interest and deposited by district directors as repayments to the appropriation from which paid. **[TDs 49658, 51334, 52563, 52979, 53399, 54318, 54662, 54876, 55196, 56209.]**

(1) When a Customs officer or employee is assigned on board a vessel or vehicle under authority of section 457, Tariff Act of 1930, to protect the revenue, the owner or master of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(2) When a Customs officer or employee is assigned on board a vessel under authority of section 458, Tariff Act of 1930, to supervise the unlading of such vessel, the master or owner of such vessel shall be charged the full compensation of such officer or employee for every day consumed in unlading after the expiration of 25 days after the date of the vessel's entry.

(3) When a Customs officer or employee is assigned under authority of section 304, Tariff Act of 1930, as amended, to supervise the exportation, destruction, or marking to exempt articles from the duty provided for in such section, the importer of such merchandise shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(4) When a Customs officer or employee is assigned pursuant to § 101.4 of this chapter to a Customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns. When a Customs officer or employee is so assigned to render service in connection with the entry or delivery of merchandise only, the private interest shall be charged only for the authorized travel and subsistence expenses incurred by such officer or employee from the time he leaves his official station until he returns thereto, except that no collection need be made if the total amount chargeable against one importer for one day amounts to less than 50 cents (see § 101.4(b) of this chapter). Where the amount chargeable is 50 cents or more, but less than $1, a minimum charge of $1 shall be made. **[TDs 51334, 54876, 77-241.]**

(5) When a Customs officer or employee is assigned under authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or to supervise the unlading of cargo, the private interest shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(6) [Reserved]

(7) When a Customs officer or employee is assigned on any vessel or vehicle, under authority of section 456, Tariff Act of 1930, while proceeding from one port to another, the master or owner of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto, or, in lieu of such expenses, the master or owner may furnish such officer or employee the accommodations usually supplied to passengers. **[TD 52563.]**

(8) When a Customs officer or employee[5aa] is assigned under authority of section 562, Tariff Act of 1930, as amended, to supervise the manipulation of merchandise at a place other than a bonded warehouse, the compensation and expenses of such officer or employee shall be reimbursed to the Government by the party in interest.

(9) When a Customs officer or employee is assigned to supervise the destruction of merchandise pursuant to section 557(c), Tariff Act of 1930, as amended, at a place where a Customs employee is not regularly assigned, the full compensation and expenses of such officer or employee shall be reimbursed to the Government by the party in interest. **[TD 52979.]**

(10) When a Customs officer or employee is assigned to supervise the labeling of imported merchandise in accordance with the provisions of §§ 11.12(b), 11.12a(b), 11.12b(b) of the regulations of this chapter or the removal or obliteration of prohibited markings and trade marks from merchandise which has been detained or seized in accordance with the provisions of §§ 11.13(c) and 11.17(b) of the regulations of this chapter or to supervise the exportation or destruction of any such merchandise, the compensation and expenses of such Customs officer or employee shall be reimbursed to the Government by the party in interest. **[TDs 54318, 56140.]**

(11) When a Customs officer or employee is assigned to supervise examination, sampling, weighing, repacking, segregation, or other operation on merchandise in accordance with §§ 151.4, 151.5, 158.11, 158.14, and 158.42 of this chapter, the compensation and other expenses of such officer or employee shall be reimbursed to the Government by the party-in-interest except when a warehouse proprietor is liable therefor. **[TDs 54662, 55196, 72-258, 73-175.]**

(b) When a Customs officer or employee is assigned to render services the nature of which is such that the private interest is required to reimburse the Government for his compensation and on the same assignment performs services for which compensation is not reimbursable, a charge shall be made to the private interest for the full compensation of the Customs employee unless the time devoted to each class of service can be clearly segregated. **[FACL 91/42.]**

(c) The charge for any service enumerated in this section for which expenses are required to be reimbursed shall include actual transportation expenses of a Customs employee within the port limits and any authorized travel expenses of a Customs employee, including per diem, when the services are performed outside the port limits irrespective of whether the services are performed during a regular tour of duty or during a Customs overtime assignment. No charge shall be made for transportation expenses when a Customs employee is reporting to as a first daily assignment, or leaving from as a last daily assignment, a place within or outside the port limits where he is assigned to a regular tour of duty. No charge shall be made for transportation expenses within the port limits or travel expenses, including per diem, outside the port limits in connection with a Customs overtime assignment for which reimbursement of expenses is not covered by this section. **[TDs 54486, 54876, 55222, 56209.]**

[5aa] A customs officer or employee so assigned is not acting as a customs warehouse officer, since the services have no connection with a customs bonded warehouse

(d) The reimbursable charge for regular compensation shall be computed in accordance with § 19.5(b) of this chapter. **[TDs 51075, 51444, 54486, 56209.]**

(e) The reimbursable charge for customs overtime compensation shall be computed in accordance with § 24.16. (Sec. 5, 36 Stat. 901, as amended, secs. 450, 451, 452, 456, 524, 557, 562, 46 Stat. 715, as amended, 716, 741, as amended, 744, as amended, 745, as amended, sec. 1, 24 Stat. 79, as amended, sec. 6, 49 Stat. 1385, as amended; 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562, 46 U.S.C. 331, 382b) **[TD 56209.]**

§ 24.18 Preclearance of air travelers in a foreign country; reimbursable cost.

(a) Preclearance is the tentative examination and inspection of air travelers and their baggage at foreign places where U.S. Customs personnel are stationed for that purpose. **[TD 70-34.]**

(b) At the request of an airline, travelers on a direct flight to the United States from a foreign place described in paragraph (a) of this section may be precleared prior to departure from such place. A charge based on the excess cost to Customs of providing preclearance services as defined in paragraph (c) of this section shall be made to the airline.

(c) The reimbursable excess cost is the difference between (1) the cost of examining and inspecting air travelers and their baggage upon arrival in the United States assuming no preclearance was provided, and (2) the cost of providing preclearance for air travelers at the place of departure. Such excess cost shall include all items attributable to the preclearance operation. This does not include the salary of personnel regularly assigned to a preclearance station other than approved salary differentials related to the foreign assignment and the salary of relief details made necessary by reason of the nature of the operation. In addition, such cost shall include the following allowances and expenses:

(1) Housing allowances;

(2) Post of duty allowances;

(3) Education allowances;

(4) Transportation cost incident to the assignment to the foreign station and return, including transportation of family and household effects;

(5) Home leave and associated transportation costs; and

(6) Equipment, supplies and administrative costs including costs of supervising the preclearance installation.

(d) The reimbursable excess cost described in paragraph (c) of this section shall be determined for each preclearance installation. On the basis of the excess cost figure for each installation, the excess cost of providing preclearance service for a biweekly pay period shall be determined. The initial schedule of biweekly excess cost will be based on the actual excess cost for fiscal year 1969. Thereafter, a quarterly (ending with the pay period closely corresponding to June 30, September 30, December 31, and March 31) cost analysis will be conducted and the schedule of biweekly excess costs will be adjusted so that the current biweekly excess cost schedule will reflect the actual excess costs of the previous quarter. Such schedules of biweekly costs for each installation shall be published in the Federal Register. The biweekly excess cost in effect at an installation at the time the charge is made shall be used in calculating the prorated charge for preclearance service for each airline in accordance with paragraph (e) of this section.

(e) The charge to each airline for preclearance service shall be its prorated share of the applicable excess cost prorated to the aircraft receiving such services during the billing period on the following basis:

(1) Five percent shall be distributed equally among the airlines serviced.

(2) Ten percent shall be distributed proportionately as the number of clearances serviced bears to the total number of clearances.

(3) Eighty-five percent shall be distributed proportionately as the number of passengers and/or crew serviced for each airline bears to the total number of passengers and/or crew serviced.

(f) Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), and the expenses recovered thereunder are governed by § 24.15 and are in no way affected by this section. (63 Stat. 290; 31 U.S.C. 483a) (80 Stat. 379; 5 U.S.C. 301)

§ 24.32 Claims; unpaid compensation of deceased employees and death benefits.

(a) A claim made by a designated beneficiary or a surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee. A claim made by anyone other than a designated beneficiary or surviving spouse for unpaid compensation due an officer or employee at the time of his death shall be executed on standard Form 1155, Claim for Unpaid Compensation of Deceased Civilian Employee. The claims shall be forwarded to the Customs office where the deceased was employed. **[TDs 48599, 52717, Gen. Reg. 42 (4 Comp. Gen. 1096); Sup. 1 (7 Comp. Gen. 848); Sup. 3 (12 Comp. Gen. 673).]**

(b) Claims for death benefits, either in the form of an annuity or lump-sum payment of the amount to the credit of the deceased officer or employee in the Retirement and Disability Fund shall be executed on standard Form 100, Application for Death Benefit, and forwarded together with a certified copy of the public record of death directly to the Civil Service Commission, Washington, D.C. 20415. (Secs. 1, 3, 64 Stat. 395, 396, sec. 11, 41 Stat. 619, as amended; 5 U.S.C. 61f, 61h, 724)

§ 24.34 Vouchers; vendors' bills of sale; invoices.

(a) Vouchers or invoices for transportation and related services which are intended for payment from official funds shall contain the following certification signed by the claimant: **[TDs 52752, 54355; Gen. Regs. No. 134]**

> I certify that the above bill is correct and just and that payment has not been received.

Vouchers, vendors' bills of sale, or invoices for purchases or services other than personal do not require the foregoing certification.

(b) Every voucher shall be in the name of the person or persons furnishing the service or supplies, except in the case of a service or supplies paid for in an emergency by a Customs officer or employee, in which case the voucher may be in the name of the officer or employee who made the payment.

(c) The signature of a claimant made by a mark shall be attested in each case by a disinterested witness.

(d) The dates appearing on vouchers and on receipts filed in support thereof shall always be the actual dates of the transactions recorded or action taken thereon. As many copies in memorandum form, duly authenticated if desired, may be prepared as administrative or other requirements demand.

(e) When an erasure, interlineation, or change of any kind is made in a voucher after it has been certified by the claimant, such correction or change shall be initialed and dated by the claimant.

(f) (1) Vouchers for passenger transportation furnished Customs officers or employees on Government transportation requests, standard Form 1169, and vouchers for transportation of freight and express furnished on Government bills of lading, standard Form 1103, issued by Customs officers or employees shall be rendered on Public Voucher for Transportation Charges, standard Form 1171 or 1113, respectively, to the Customs office to be billed as indicated on the transportation request or bill of lading. **[TDs 52752, 54355; Gen. Reg. 97—Revised (25 Comp. Gen. 924); Gen. Regs. No. 123 (34 Comp. Gen. 782).]**

(2) Charges for freight or express must not be included on the same vouchers with charges for passenger transportation. The words "Passenger," "Freight," or "Express," as the case may be, should be printed or otherwise placed by the carrier immediately above the title of the voucher form. Original Government bills of lading, standard Form 1103, or transportation requests, standard Form 1169, or certificates in lieu thereof, standard Forms 1108 or 1172, respectively, shall be attached to these vouchers. (Sec. 22, 28 Stat. 210, as amended; 41 U.S.C. 21)

§ 24.36 Refunds of excessive duties, taxes, etc.[6]

(a) When it is found on liquidation or reliquidation of an entry that a refund of excessive duties or taxes, or both, is due, a refund shall be prepared in the name of the person to whom the refund is due, as determined by paragraphs (b) and (c) of this section. If an authority to mail checks to someone other than the payee, Customs Form 4811, is on file, the address of the payee shall be shown as in care of the address of the authorized persons. If a power of attorney is on file, the address of the payee may be shown as in care of the address of such attorney, if requested. A Form 4811 received by Customs will not be effective if a Customs transaction requiring the use of the owner's importer number has not been made within 3 years from the date the Form 4811 was filed or if there is no unliquidated entry on file to which such number is to be associated. **[TDs 45951, 47052, 48599, 49645, 53370, 55389, 67-33.]**

(b) Refunds of excessive duties or taxes shall be certified for payment to the importer of record unless a transferee of the right to withdraw merchandise from bonded warehouse is entitled to receive the refund under section 557(b), Tariff Act of 1930, as amended, or an owner's declaration has been filed in accordance with section 485(d), Tariff Act of 1930, or a surety submits evidence of payment to Customs, upon default of the principal, of amounts previously determined to be due on the same entry or transaction. The certification of a refund for payment to a nominal consignee may be made prior to the expiration of the 90-day period within which an owner's declaration may be filed as prescribed in section 485(d) of the Tariff Act, provided the nominal consignee waives in writing his right to file such declaration. If an owner's declaration has been duly filed, the refund shall be certified for payment to the actual owner who executed the declaration, except that, irrespective of whether an owner's declaration has been filed, refunds shall be certified for payment to a transferee provided for in section 557(b), Tariff Act of 1930, as amended, if the moneys with respect to which the refund was allowed were paid by such transferee. If a surety submits evidence of payment to Customs, upon default of the principal, for an amount previously determined to be due on an entry or transaction the refund shall be certified to that surety up to the amount paid by it or shall be applied to other obligations of the surety. **[CIEs 612/41; 694/41; TDs 45951, 53336, 53399, 71-289.]**

(c) If the nominal consignee has become bankrupt, refunds of duties or internal revenue taxes on merchandise entered in the name of such nominal consignee for the account of the actual owner shall be withheld from payment pending the receipt of a claim therefor and the establishment of rights thereto, unless the declaration of the actual owner has been filed with the district director under section 485(d), Tariff Act of 1930. **[TD 53370.]**

(d) The authority of district directors to make refunds pursuant to paragraphs (a), (b), and (c) of this section of excessive deposits of alcohol or tobacco taxes, as defined in section 6423(e)(1), Internal Revenue Code of 1954 (26 U.S.C. 6423(e)(1)),[7] is confined to cases of the types which are excepted from the application of section 6423, Internal Revenue Code of 1954 (26 U.S.C. 6423). The excepted types of cases and, therefore, the types in which the district director is authorized to make refunds of such taxes are those in which: **[TD 54896.]**

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[6] (a) The Secretary of the Treasury is hereby authorized to refund duties or other receipts in the following cases:

"(1) *Excess deposits.* Whenever it is ascertained on liquidation or reliquidation of an entry that more money has been deposited or paid as duties than was required by law to be so deposited or paid;

"(2) *Fees, charges, and exactions.* Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected; and

"(3) *Fines, penalties, and forfeitures.* Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted." (Tariff Act of 1930, sec. 520(a), as amended; 19 U.S.C. 1520(a)).

The refunding of moneys in compliance with any ruling or decision of the Customs Court is the function of the Secretary of the Treasury, and there is no foundation for a suit against the collector of customs to restrain him from disposal of such moneys.

Payment of costs and interest upon refunds in customs cases is not allowed.

[7] "(e) *Meaning of terms.* For purposes of this section—

(1) *Alcohol or Tobacco Tax.* The term 'alcohol or tobacco tax' means—

(A) Any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provisions of prior internal revenue laws, and

(B) In the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax." (26 U.S.C. 6423(e)(1))

(1) The tax was paid or collected on an article imported for the personal or household use of the importer;

(2) The refund is made pursuant to provisions of laws and regulations for drawback;

(3) The tax was paid or collected on an imported article withdrawn from the market, returned to bond, or lost or destroyed, when any law expressly provides for refund in such case;

(4) The tax was paid or collected on an imported article which has been lost, where a suit or proceeding was instituted before June 15, 1957;

(5) The refund of tax is pursuant to a claim based solely on errors of computation of the quantity of the imported article, or on mathematical errors in computation of the tax due;

(6) The tax was paid or collected on an imported article seized and forfeited, or destroyed, as contraband;

(7) The tax was paid or collected on an imported article refused admission to Customs territory and exported or destroyed in accordance with section 558, Tariff Act of 1930, as amended;

(8) The refund of tax is pursuant to a reliquidation of an entry under section 520(c)(1), Tariff Act of 1930, as amended, and does not involve a rate of tax applicable to an imported article; or

(9) The tax was paid or collected on a greater quantity of imported articles than that actually imported and the fact of the deficiency is established to the district directors' satisfaction before liquidation of the entry becomes final.

(e) In any instance in which a refund of an alcohol or tobacco tax is not of a type covered by paragraph (d) of this section the following procedure shall apply: **[TDs 54896, 55472.]**

(1) The district director shall issue a notice of refund for duty only and shall place the following statement on the notice of refund issued for duty: "Claim or refund of any overpayment of internal revenue tax on this entry must be executed and filed with the assistant regional commissioner (alcohol, tobacco and firearms) of the internal revenue region in which the claimant is located, in accordance with internal revenue regulations (Title 26 of the Code of Federal Regulations)." On request of the claimant, the district director shall issue a certified statement on Customs letterhead identifying the entry, showing the amount of internal revenue tax deposited with respect to each entry for which a claim on internal revenue Form 843 is to be made, and showing the date of issuance of the notice of refund of duty.

(2) The claim shall be executed on internal revenue Form 843 (original only) which may be procured from offices of the Internal Revenue Service and shall be filed with the assistant regional commissioner (alcohol, tobacco and firearms) of the internal revenue region in which the claimant is located. The certified statement shall be attached to and filed in support of such claim which may include refunds under more than one entry but shall be limited to refunds under entries filed in the same Customs district and the same internal revenue region. The data to be shown on the claim shall be as prescribed in internal revenue regulations, with the exception that any data on the certified statement also required to be shown in the claim need not be restated in the claim.

(3) The date of allowance of refund or credit in respect of such tax for the purposes of section 6407, Internal Revenue Code of 1954 (26 U.S.C. 6407) shall be that date on which a claim is perfected and the refund is authorized for scheduling under the applicable internal revenue regulations. (72 Stat. 9; 26 U.S.C. 6423) **[TD 54896.]**

§ 24.70 Claims; deceased or incompetent public creditors.

(a) Claims for amounts due individual deceased public creditors of the United States (except civilian officers and employees subject to the provisions of section 61f–61k, title 5, United States Code), should be made on standard Form No. 1055—Revised. Such claims include claims for payments due deceased contractors for articles furnished or services performed, and claims for payments due deceased importers or owners of merchandise on account of refunds of excessive duties, or taxes, or for payment of drawback, etc. Claims for payment of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such public creditors, which cannot be paid because of the death of the payee, should be stated on standard Form 1055—Revised. Information should be furnished regarding the disposition of these checks in case they are not in possession of the claimant, otherwise they should accompany the claim. **[TDs 52793, 53399.]**

(b) No form is prescribed for use of a guardian or committee of an estate of an incompetent in making claim for sums due from the United States. Such guardian or committee may submit in letter form, over his address and signature, an application for amounts due an estate of an incompetent, setting forth the incompetent's connection with the United States Customs Service. This application should be supported by a short certificate of the court showing the appointment and qualification of the claimant as guardian or committee. In case the total amount due the estate of the incompetent is small, and no guardian or committee of the estate has been or will be appointed, the application may be submitted by the person or persons having care or custody of the incompetent, or by close relatives who will hold any amount found due for the use and benefit of the incompetent. Applications for recurring payments need not be accompanied by an additional certificate of the court, but should be supported by a statement that the appointment is still in full force and effect. All Government checks drawn on the Treasurer of the United States or other authorized Government depository to the order of individuals which cannot be paid because of incompetency of the payee should accompany the claim, otherwise an explanation should be given as to the disposition of the check.

(c) Claims for payments due deceased or incompetent contractors should be submitted to the Customs field officer at whose order the articles were furnished or services performed. Claims for refunds of excessive duties, or taxes, or for payment of drawback and other similar claims due deceased or incompetent public creditors shall be submitted to the appropriate regional commissioner of Customs. The Customs field officer may grant necessary assistance to claimants to insure proper execution of standard Form 1055—Revised in the case of deceased public creditors, and in the case of incompetent public creditors to insure submission of the application in proper form. The regional commissioner shall settle the claim unless there is a doubtful question of fact or law, in which case the claim shall be forwarded to the Assistant Director (Accounting), Division of Financial Management, United States Customs Service, with originals or certified copies of any necessary documents and with an appropriate report and recommendation. **[TD 68-142.]**

§ 24.71 Claims for personal injury or damages to or loss of privately owned property.

Procedures for the settlement of claims arising from actions of Treasury Department employees are published in 31 CFR Part 3. **[TD 51684.]**

§ 24.72 Claims; set-off.

When an importer of record or other party has a judgment or other claim allowed by legal authority against the United States, and he is indebted to the United States, either as principal or surety, for an amount which is legally fixed and undisputed, the district director shall set off so much of the judgment or other claim as will equal the amount of the debt due the Government. **[TD 56388.]**

§ 24.73 Miscellaneous claims.

Every claim of whatever nature arising under the Customs laws which is not otherwise provided for shall be forwarded directly to Headquarters, U.S. Customs Service, together with all supporting documents and information available.

PART 25—CUSTOMS BONDS—Abolished; Incorporated into new Part 113

[TD 74-227]

PARTS 26, 30, 31, 32, 33, & 53 Amended & Redesignated as follows:

1. Part 26 is redesignated as Part 103.
2. Part 30 is redesignated as Part 146.
3. Part 31 is redesignated as Part 111.
4. Part 32 is redesignated as Part 147.
5. Part 33 is redesignated as Part 114.
6. Part 53 is redesignated as Part 153.

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

Metal Articles Imported To Be Used in Remanufacture by Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

Sec.
54.5 Scope of exemptions; nondeposit of estimated duty.
54.6 Proof of intent; bond; proof of use; liquidation.

Authority: R.S. 251, amended, sec. 624, 46 Stat. 759, 19 U.S.C. 66, 1624, Gen. Hdnte. 11, Tariff Schedules of the United States (TSUS), (sec. 101, 76 Stat. 72; Item 911.10, TSUS, 92 Stat. 1774; Items 911.11 and 911.12, TSUS).

Source: **[TD 80-151, 45FR 38041, June 6, 1980, unless otherwise noted.**

Metal Articles Imported To Be Used in Remanufacture of Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

§ 54.5 Scope of exemptions; nondeposit of estimated duty.

(a) Except as otherwise provided in this section, articles in chief value of metal to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, and actually so used, shall be entitled to free entry upon compliance with section 54.6, if entered , or withdrawn from warehouse for consumption, during the effective period of items 911.11 and 911.12, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). This provision does not apply to

(1) articles in chief value of lead, zinc, or tungsten;

(2) metal-bearing materials provided for in Schedule 4, TSUS, or Part 1, Schedule 6, TSUS; or

(3) unwrought metal provided for in Part 2, Schedule 6, TSUS. **[TDs 54700, 55978.]**

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal, from warehouse for consumption of the articles described in paragraph (a) of this section if the district director is satisfied at the time of entry or withdrawal by written declaration of the importer that the merchandise was imported to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of the metal content.

§ 54.6 Proof of intent; bond; proof of use; liquidation.

Articles in chief value of metal, described in § 54.5(a) shall be admitted free of duty upon compliance with the following conditions:

(a) There shall be filed in connection with the entry[1] a statement of the importer that the articles are to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content.

(b) If the articles are entered for consumption, there also be filed in connection with the entry a bond on Customs Form 7551 or 7553. If the articles are entered for warehouse, the regular warehouse bond, Customs Form 7555, shall be given, and withdrawals shall be made on Customs Form 7506. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

(c) Within 3 years from the date of entry, or withdrawal from warehouse for consumption, the importer shall submit to the district director at the port of entry, a statement from the superintendent or manager of the plant at which the articles were used in remanufacture by melting, or were processed by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, showing:

(1) The name and location of the plant;

(2) The entry number, date, and port of entry (if the person making the statement is not in possession of this information, a reference to invoices, purchase orders, or other documents which will identify the shipment with the entry may be substituted);

(3) The date or inclusive dates of the remanufacture or processing of the articles; and

(4) A description of the remanufacture or processing in sufficient detail to enable the district director to determine whether it constituted a use in remanufacture by melting, or processing by shredding, shearing, compacting, or similar processing which rendered the articles fit only for the recovery of the metal content. In appropriate cases, the remanufacture or processing of the articles covered by more than one entry may be included in one statement. The statement shall be based on adequate and carefully kept plant and import records which shall be available during normal business hours to any Customs officer. The importer and plant manager shall maintain the import and plant records for 5 years from the date of the related entry of the merchandise. The burden shall be on the importer or plant manager to keep these records so that the claim actual use can be established readily. **[TD 79-159.]**

(d) If satisfactory proof of use of the articles in remanufacture by melting, or in processing by shredding, shearing, compacting, or similiar processing which rendered them fit only for the recovery of the metal content, is furnished within the prescribed time, the entry shall be liquidated without the assessment of duty on the articles covered by such proof. If proof is not filed within 3 years from the date of entry, or withdrawal from warehouse for consumption, or the use does not warrant the classification claimed, the entry shall be liquidated without any exemption from duty under item 911.11 or 911.11, Tariff Schedules of the United States.

PART 56 DELETED.

Part 56—EXTENSIONS OF TIME PURSUANT TO PROCLAMATION OF THE PRESIDENT UNDER SECTION 318, TARIFF ACT OF 1930—Abolished; Incorporated into new Part 127 TD 74-114

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[1] "In connection with the entry" means any time before to liquidation of the entry or within the period during which a valid reliquidation may be completed (§ 113.43(c)). Therefore, a claim for free entry under Item 911.11 or 911.12, Tariff Schedules of the United States, supported by a statement of intent may be filed at any time before liquidation of the entry or within the period during which a valid reliquidation may be completed. **[TD 80-151.]**

PART 101—GENERAL PROVISIONS

Sec.

101.0 Scope.
101.1 Definitions.
101.2 Authority of Customs officers.
101.3 Customs regions, districts and ports.
101.4 Entry and clearance or vessels at Customs stations.
101.5 Customs preclearance offices in foreign countries.
101.6 Hours of business.
101.7 Customs seal.
101.8 Identification cards.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14, 79 Stat. 1317; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

Source: T.D. 77-241, 42 FR 54936, Oct. 12, 1977, unless otherwise noted.

§ 101.0 Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs regions, districts, and ports of entry, and of Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees. **[TD 77-241.]**

§ 101.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

(a) *Area.* "Area" refers to any of the three administrative areas created in the Customs district of New York City, New York, which is coextensive with Customs Region II, New York City, New York, and identified as Kennedy Airport Area, Newark Area, and New York Seaport Area, each of which is under the jurisdiction of an area director of Customs.

(b) *Customs district.* A "Customs district" is the geographical area under the jurisdiction of a district director of Customs.

(c) *Customs region.* A "Customs region" is the geographical area under the jurisdiction of a regional commissioner of Customs.

(d) *Customs station.* A "Customs station" is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President's Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

(e) *Customs territory of the United States.* "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico.

(f) *Date of entry.* The "date of entry" or "time of entry" of imported merchandise shall be the effective time of entry of such merchandise, as defined in § 141.68 of this chapter.

(g) *Date of exportation.* "Date of exportation" or "time of exportation" shall be as defined in § 152.1(c) of this chapter.

(h) *Date of importation.* "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, "date of importation" means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade such merchandise.

(i) *Duties.* "Duties" means Customs duties and any internal revenue taxes which attach upon importation.

(j) *Entry or withdrawal for consumption.* "Entry or withdrawal for consumption" means entry for consumption or withdrawal from warehouse for consumption.

(k) *Importer.* "Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:

(1) The consignee, or

(2) The importer of record, or

(3) The actual owner of the merchandise, if an actual owner's declaration and superseding bond has been filed in accordance with § 141.20 of this chapter, or

(4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of part 144 of this chapter.

(l) *Port and port of entry.* The terms "port" and "port of entry" refer to any place designated by Executive order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a Customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the Customs and navigation laws. The terms "port" and "port of entry" incorporate the geographical area under the jurisdiction of a port director when such port is one other than a district headquarters port. (The Customs District of the Virgin Islands, although under the jurisdiction of the Secretary of the Treasury, has its own Customs laws (48 U.S.C. 1406(i)). This district, therefore, is outside the Customs territory of the United States and the ports thereof are not "ports of entry" within the meaning of these regulations.)

(m) *Principal field officer.* A "principal field officer" is an officer in the field service whose immediate supervisor is located at Customs Service Headquarters.

§ 101.2 Authority of Customs officers.

(a) *Supremacy of delegated authority.* Action taken by any person pursuant to authority delegated to him by the Secretary of the Treasury, whether directly or by subdelegation, shall be valid despite the existence of any statute or regulation, including any provision of this chapter, which provides that such action shall be taken by some other person. Any person acting under such delegated authority shall be deemed to have complied with any statute or regulation which provides or indicates that it shall be the duty of some other person to perform such action.

(b) *Consolidation of functions.* Any reorganization of the Customs Service or consolidation of the functions of two or more persons into one office which results in the failure of a designated Customs officer to perform an action required by statute or regulation, shall not invalidate the performance of that action by any other Customs officer.

§ 101.3 Customs regions, districts and ports.

(a) *Redesignation of Customs districts and ports of entry.* The Under Secretary of the Treasury, pursuant to authority delegated by the Secretary of the Treasury, is authorized from time to time, as the needs of the Customs Service may require, to rearrange or consolidate the Customs districts, to discontinue ports of entry by abolishing them and establishing others in their place, and to change the location of the headquarters in any Customs district as the needs of the Customs Service may require.

(b) *Customs regions, districts and ports of entry listed.* The following is a list of Customs regions and districts, with a list of the ports in each district. (The Customs region of New York City, New York, is coextensive with the Customs district of New York City, New York.) The first-named port in each district, listed in capital letters, is the headquarters port. Many of the ports listed were created by the President's message of March 3, 1913, concerning a reorganization of the Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Subsequent orders of the President or of the Secretary of the Treasury which affected these ports, or which created (or subsequently affected) additional ports, are cited following the name of the ports. **[TD 78-99, 79-169, 79-201, 79-232, 79-254.]**

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
I	Boston, Mass.	Portland, Maine.	The States of Maine and New Hampshire except the county of Coos.	PORTLAND, MAINE, including territory described in E.O. 9297, Feb. 1, 1943; 8 FR 1479.
				Bangor, Maine, including Brewer, Maine (E.O. 9297, Feb. 1, 1943; 8 FR 1479).
				Bar Harbor, Maine, including Mount Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor and Trenton; (E.O. 4572, Jan. 27, 1927; T.D. 78-130).
				Bath, Maine, including Booth Bay and Wiscasset (E.O. 4356, Dec. 15, 1925).
				Belfast, Maine, including Searsport (E.O. 6754, June 28, 1934).
				Bridgewater, Maine, (E.O. 8079, Apr. 4, 1939; 4 FR 1475).
				Calais, Maine, including townships of Calais, Robbinston, and Baring (E.O. 6284, Sept. 13, 1933).
				Eastport, Maine, including Lubec and Cutler (E.O. 4296, Aug. 26, 1925).
				Fort Fairfield, Maine.
				Fort Kent, Maine.
				Houlton, Maine (E.O. 4156, Feb. 14, 1925).
				Jackman, Maine, including the townships Jackman, Sandy Bay, Bald Mountain, Holeb, Attean, Lowelltown, Dennistown, and Moose River (T.D. 54683).
				Jonesport, Maine, including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport (E.O. 4296, Aug. 26, 1925; E.O. 8695, Feb. 25, 1941).
				Limestone, Maine.
				Madawaska, Maine.
				Portsmouth, N.H., including Kittery, Maine.
				Rockland, Maine.
				Van Buren, Maine
				Vanceboro, Maine.
		St. Albans, Vt.	The State of Vermont and the county of Coos, N.H.	ST. ALBANS, VT., including township of St. Albans (E.O. 3925, Nov. 13, 1923; E.O. 7632, June 15, 1937; 2 FR 1042 T.D. 77—165).
				Beecher Falls, Vt.
				Burlington, Vt., including the town of South Burlington (T.D. 54677).
				Derby Line, Vt.
				Highgate Springs/Alburg, Vt., including the territory described in T.D. 77—165
				Norton, Vt., including the territory described in T.D. 73-249.
				Richford, Vt.

Regions		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
		Boston, Mass.	The State of Massachusetts.	BOSTON, including territory and waters adjacent thereto described in T.D. 56493. Fall River, including territory described in T.D. 54476. Gloucester. Lawrence, including the territory described in T-D 71-12 (E.O. 5444, Sept. 16, 1930); (E.O. 10088, Dec. 3, 1949; 14 FR 7287). New Bedford. Plymouth. Salem, including Beverly, Marblehead, Lynn, and Peabody (E.O. 9207, July 29, 1942). Springfield (T.D. 69-189). Worcester.
		Providence, R.I.	The State of Rhode Island.	PROVIDENCE, including the territory described in T.D. 67-3. Newport.
		Bridgeport, Conn.	The State of Connecticut.	BRIDGEPORT, including territory described in T.D. 68-224. Hartford, including territory described in T.D. 68-224. New Haven, including territory described in T.D. 68-224. New London, including territory described in T.D. 68-224.
		Ogdensburg, N.Y.	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York.	OGDENSBURG. Alexandria Bay, including territory described in E.O. 10042, Mar. 10, 1949; 14 FR 1155. Cape Vincent. Champlain-Rouses Point, including territory described in T.D. 67-68. Chateaugay. Clayton. Fort Covington. Massena (T.D. 54834). Trout River (T.D. 56074).
		Buffalo, N.Y.	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, Erie, Niagara, Cattaraugus, Chautauqua, and Tioga in the State of New York.	BUFFALO-NIAGARA FALLS, N.Y. (T.D. 56512). Oswego. Rochester. Sodus Point. Syracuse. Utica.
II	New York City, N.Y.	New York City, N.Y.	The counties of Sussex, Morris, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg. [TD 81-160] (The district is divided into three areas, namely, Kennedy Airport Area, Newark Area, and New York Seaport Area, the limits of which are described in T.D. 71-19 and T.D. 76-59).	NEW YORK, N.Y., including territory described in E.O. 4205, Apr. 15, 1925 (T.D. 53876). Albany, N.Y. Perth Amboy, N.J.

Regions		Districts		
No	Head-quarters	Name and headquarters	Area	Ports of entry
III	Baltimore, Md	Philadelphia, Pa	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	PHILADELPHIA, PA., including Camden and Gloucester City, N.J., and territory described in E.O. 7840, Mar. 15, 1938; 3 FR 687; T.D. 53738 and T.D. 54303. Chester, Pa. (E.O. 7706, Sept. 11, 1937; 2 FR 1848). Harrisburg, Pa. (T.D. 71-233). Pittsburgh, Pa., including the territory described in T.D. 67-197. Wilkes-Barre/Scranton, Pa., including the territory described in T.D. 75-64. Wilmington, Del., including territory described in T.D. 54202 (E.O. 4496, Aug. 12, 1926).
		Baltimore, Md	The State of Maryland except the counties of Montgomery and Prince George's.	BALTIMORE, MD., including territory described in T.D. 68-123. Annapolis, Md. Cambridge, Md. (E.O. 3888, Aug. 13, 1923). Crisfield, Md.
		Washington, D.C.	The District of Columbia, the counties of Montgomery and Prince George's in the State of Maryland, the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria in the State of Virginia, including any independent cities and towns within such boundaries of such counties.	WASHINGTON, D.C., including the territory described in T.D. 68-67. Alexandria, Va. (T.D. 68-67).
		Norfolk, Va.	The State of Virginia, except the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, including any independent cities and towns within the boundaries of such counties, and the State of West Virginia.	NORFOLK AND NEWPORT NEWS, including the waters and shores of Hampton Roads. Cape Charles City. Charleston, W. Va., including the territory described in T.D. 73-221. Reedville. Richmond-Petersburg, including the territory described in T.D. 68-179.
IV	Miami, Fla.	Wilmington, N.C.	The State of North Carolina.	WILMINGTON, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937; 2 FR 2679, and territory described in E.O. 10042, Mar. 10, 1949; 14 FR 1155). Beaufort-Morehead City (T.D. 55637). Charlotte (T.D. 56079). Durham (E.O. 4876, May 3, 1928) including territory described in E.O. 9433, Apr. 6, 1944; 9 FR 3761 and T.D. 82-9. Reidsville (E.O. 5159, July 18, 1929) including territory described in E.O. 9433, Apr. 6, 1944; 9 FR 3761. Winston-Salem (E.O. 2366, Apr. 24, 1916).
		Charleston, S.C.	The State of South Carolina.	CHARLESTON, including the territory described in T.D. 76-142. Georgetown. Greenville-Spartanburg, S.C., including territory described in T.D. 70-148.
		Savannah, Ga.	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	SAVANNAH, including territory described in E.O. 8367, Mar. 5, 1940; 5 FR 985. Atlanta, including territory described in T.D. 55548. Brunswick.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Tampa, Fla.	The north shore of the St. Marys River and the city of St. Marys, Ga., and all the State of Florida lying east of the east bank of the Ochlockonee River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, Dade.	TAMPA, including territory described in T.D. 68-91. Boca Grande. Fernandina Beach, including St. Marys, Ga. (T.D. 53033). Jacksonville (T.D. 69-45). Orlando, Fla. (T.D. 76-306). Port Canaveral, Fla., including territory described in T.D. 66-212. St. Petersburg (E.O. 7928, July 14, 1938, 3 FR 1749), including territory described in T.D. 53994.
		Miami, Fla.	The counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida.	MIAMI, FLA., including territory described in T.D. 53514. Key West, including territory described in T.D. 53994. Port Everglades (E.O. 5770, Dec. 31, 1931), including territory described in T.D. 53514. Mail: Fort Lauderdale, Fla. West Palm Beach (E.O. 4324, Oct. 15, 1925), including territory described in T.D. 53514.
		San Juan, P.R.	The Commonwealth of Puerto Rico.	SAN JUAN, including territory described in T.D. 54017. Aguadilla. Fajardo. Guanica. Humacao, including the territory described in T.D. 70-157. Jobos (E.O. 9162, May 13, 1942). Mayaguez (T.D. 22305). Ponce, including territory described in T.D. 54017.
		Charlotte Amalie, St. Thomas, V.I.	All of the Virgin Islands of the United States.	CHARLOTTE AMALIE, ST. THOMAS, V.I. Christiansted, St. Croix. Coral Bay, St. John. Frederiksted, St. Croix.
V	New Orleans, La.	Mobile, Ala.	The State of Alabama and that part of the State of Mississippi lying south of lat. 31° N., and that part of the State of Florida lying west of the east bank of the Ochlockonee River.	MOBILE, ALA., including the territory described in T.D. 76-259. Apalachicola, Fla. Birmingham, Ala. Carrabelle, Fla. (E.O. 7508, Dec. 11, 1936; 1 FR 2149). Gulfport, Miss. Huntsville, Ala., including the territory described in T.D. 80-176. Panama City, Fla. (E.O. 3919, Nov. 1, 1923). Pascagoula, Miss., including territory described in T.D. 56333. Pensacola, Fla. Port St. Joe, Fla. (E.O. 7818, Feb. 17, 1938; 3 FR 503).
		New Orleans, La.	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of lat. 31° N.	NEW ORLEANS, LA., including territory described in T.D. 74-206. Baton Rouge, La. (E.O. 5993, Jan. 13, 1933), including territory described in T.D. 53514 and T.D. 54381. Chattanooga, Tenn. Gramercy, Louisiana, including territory described in T.D. 82-93. Greenville, Mississippi, including the territory described in T.D. 73-325. Knoxville, Tennessee, including territory described in T.D. 75-128. LITTLE ROCK-NORTH LITTLE ROCK, ARK., including territory described in T.D. 70-146. Memphis, Tenn. Morgan City, La. including territory described in T.D. 66-266. Nashville, Tenn. Vicksburg, Miss. (including territory described in T.D. 72-123).

Regions		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
VI	Houston, Tex.	Port Arthur, Tex.	That part of the State of Texas from Sabine Pass north along the State line to the north boundary line of Shelby County; west to the Neches River; down the western shore of said river to the north boundary of Jefferson County; westerly along said boundary to the east boundary of Liberty County; south along the east boundary of Liberty County to the Gulf of Mexico, encompassing that portion of Chambers County between the Liberty County border extended to the Gulf of Mexico and the Chambers/Jefferson County border; also the parishes of Cameron and Calcasieu in the State of Louisiana.	BEAUMONT, ORANGE, PORT ARTHUR, SABINE, TEX., including territory described in T.D. 74-231, T.D. 81-160. Lake Charles, La., (E.O. 5475, Nov. 3, 1930) including territory described in T.D. 54137. Lubbock, Tex. (T.D. 76-79).
		Houston-Galveston, Texas	That part of the State of Texas lying south of lat. 32° N. and that part of the State of Texas lying east of long. 97° W. except the territory included in the Port Arthur district.	Houston-Galveston, Texas, the territory lying within the corporate limits of both Houston and Galveston, Texas, and the remaining territory in Harris and Galveston Counties, Texas (T.D. 81-160, 82-15), Corpus Christi (E.O. 8288, including territory described in T.D. 78-130), Freeport (E.O. 7632), Port Lavaca-Point Comfort, Texas (T.D. 56115).
		Laredo, Tex.	That part of the State of Texas lying west of long. 97° W. longitude and east of the Pecos River except that territory included in the Houston and Galveston districts.	LAREDO. Brownsville, Tex., including territory described in T.D. 79-254. Del Rio. Eagle Pass. Hidalgo (E.O. 3609, Jan. 9, 1922). Progeso, including territory described in T.D. 76-339. Rio Grande City. Roma (E.O. 4830, Mar. 14, 1928). San Antonio.
		El Paso, Tex.	That part of the State of Texas lying west of the Pecos River and the States of New Mexico and Colorado.	EL PASO, TEX. (T.D. 54407), including the territory described in T.D. 78-221. Albuquerque, N. Mex., including the territory described in T.D. 74-304. Columbus, N. Mex. Denver, Colo. (T.D. 80-180). Fabens, Tex. (E.O. 4869, May 1, 1928). Presidio, Tex. (E.O. 2702, Sept. 7, 1917).
		Dallas/Fort Worth, Tex.	The State of Oklahoma, and those parts of the State of Texas lying north of lat. 32° N., and within the area north of lat. 30° N., west of 97° W. long and east of 99° W. long."	Dallas/Fort Worth, Tex. (T.D. 73-297) (T.D. 79-232) (T.D. 81-170). Amarillo, Tex. (T.D. 75-129). Austin, Tex. (T.D. 81-170). Lubbock, Tex. (T.D. 76-79). Oklahoma City, Okla., including territory described in T.D. 66-132. Tulsa, Okla. (T.D. 69-142).

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
VII	Los Angeles, Calif.	Nogales, Ariz.	The State of Arizona.	NOGALES, including the territory described in T.D. 77–285. Douglas, including territory described in E.O. 9382, Sept 25, 1943; 8 FR 13083. Lukeville (E.O. 10088, Dec. 3, 1949; 14 FR 7287). Naco. Phoenix, Ariz. (T.D. 71-103). San Luis (E.O. 5322, Apr. 9, 1930). Sasabe (E.O. 5608, Apr. 22, 1931). San Diego, Calif.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	SAN DIEGO (T.D. 54741), including the territory described in T.D. 66-229. Andrade (E.O. 4780, Dec. 13, 1927). Calexico. Tecate (E.O. 4780, Dec. 13, 1927).
		Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	LOS ANGELES-LONG BEACH, including territory described in T.D. 78-130. Las Vegas, Nev. the territory described in T.D. 79-74. Port San Luis.
VIII	San Francisco, Calif.	San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Utah and the State of Nevada, except Clark County.	SAN FRANCISCO-OAKLAND, CALIF., including Benecia, Martinez, Richmond, Sacramento, San Jose, and Stockton (T.D. 79-74), all points on San Francisco Bay, and the territory described in E.O. 10042, Mar. 10, 1949 (14 F.R. 1155), T.D. 53738 and T.D. 56020. Eureka. Calif. Fresno, California, including the territory described in T.D. 74-18 Reno, Nev., including the territory described in T.D. 73-56. Salt Lake City, Utah (T.D. 69-76).
		Honolulu, Hawaii.	The State of Hawaii.	HONOLULU (T.D. 53514). Hilo. Kahului. Nawiliwili-Port Allen (E.O. 4385, Feb. 25, 1926), including the territory described in T.D. 56424.
		Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	COLUMBIA RIVER (PORTLAND, ASTORIA, LONGVIEW) (including territory described in T.D. 73-338). Coos Bay, Oreg. (E.O. 4094, Oct. 28, 1924; E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9533, Mar. 23, 1945; 10 FR 3173). Newport, Oreg.
		Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° west.	PUGET SOUND (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Kenmore Air Harbor, Neah Bay, Olympia, Port Angeles, Port Towsend, Tacoma), including the territory described in T.D. 78-241. Aberdeen, including territory described in T.D. 79-169. Blaine (E.O. 5835, Apr. 13, 1932). Boundary (T.D. 67-65). Danville. Ferry. Frontier (T.D. 67-65). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 FR 1042). Metaline Falls (E.O. 7632, June 15, 1937; 2 FR 1042). Nighthawk. Oroville (E.O. 5206, Oct. 11, 1929). Paint Roberts, including the territory described in T.D. 78-272. South Bend-Raymond (T.D. 53576). Spokane. Sumas.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 55295, T.D. 68–50). Alcan, Alaska (T.D. 71–210). Dalton Cache (T.D. 79–74). Fairbanks (E.O. 8064, Mar. 9, 1939; 4 FR 1191). Juneau. Ketchikan, Alaska, including territory described in T.D. 74–100. SITKA, including territory described in T.D. 55609. Skagway. Wrangell, including territory described in T.D. 56420.
		Great Falls, Mont.	The States of Montana, Idaho, and Wyoming.	GREAT FALLS, MONT. Butte, Mont., including the territory described in T.D. 73–121. Del Bonita, Mont., (E.O. 7947, Aug. 9, 1938; 3 FR 1965). Mail: Cut Bank, Mont. Eastport, Idaho. Morgan, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Loring, Mont. Opheim, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Piegan, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Babb, Mont. Porthill, Idaho. Raymond, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Roosville, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Mail: Eureka, Mont. Scobey, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Sweetgrass, Mont. Turner, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Whitetail, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042). Whitlash, Mont. (E.O. 7632, June 15, 1937; 2 FR 1042).
IX	Chicago, Ill.	Pembina, N. Dak.	The States of North and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, Pennington in the State of Minnesota.	PEMBINA, N. DAK. Ambrose, N. Dak. (E.O. 5835, 13, 1932). Antler, N. Dak. Baudette, Minn. (E.O. 4422, Apr. 19, 1926). Carbury, N. Dak. (E.O. 5137, June 17, 1929). Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Neche, N. Dak. Noonan, N. Dak. (E.O. 7632, June 15, 1937; 2 FR 1042). Northgate, N. Dak. Noyes, Minn. (E.O. 5835, Apr. 13, 1932). Pinecreek, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Portal, N. Dak. Roseau, Minn. (E.O. 7632, June 15, 1937; 2 FR 1042). Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E.O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Warroad, Minn. Westhope, N. Dak. (E.O. 4236, June 1, 1925).
		Minneapolis, Minn.	The State of Minnesota except those counties in the Pembina, North Dakota, and Duluth, Minn. districts.	MINNEAPOLIS-ST. PAUL, including the territory described in T.D. 69–15.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Duluth, Minn.	The counties of Koochiching, Itaschi, St. Louis, Carlton, Pine, Lake, Cook, Clay, Aitkin, Norman, Wilkin, Ottertail, Becker, Mahnomen, Clearwater, Hubbard, Wadena, Cass, and Crow Wing in the State of Minnesota and the counties of Douglas, Bayfield, Ashland, and Iron in the State of Wisconsin, and the island of Isle Royale in the State of Michigan.	DULUTH, MINN., AND SUPERIOR, WIS., including the territory described in T.D. 55904. Ashland, Wis. Grand Portage, Minn. (T.D. 56073). International Falls-Ranier, Minn., including the territory described in T.D. 66-246.
		Milwaukee, Wis.	The State of Wisconsin, except the counties of Douglas, Bayfield, Ashland, and Iron and the county of Menominee in the State of Michigan.	MILWAUKEE, including the territory described in T.D. 72-105. Green Bay, including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere (T.D. 54597). Manitowoc. Marinette, including Menominee, Mich. Racine, including the city of Kenosha and the townships of Mount Pleasant and Somers (T.D. 54884.) Sheboygan.
		Chicago, Ill.	The State of Illinois lying north of lat. 39° N.; that part of the State of Indiana north of lat. 41° N. and the States of Iowa and Nebraska.	CHICAGO, ILL., including territory described in T.D. 71-121. Des Moines, Iowa, including the territory described in T.D. 75-104. Omaha, Nebr., including the territory described in T.D. 73-228. Peoria, Ill., including the territory described in T.D. 72-130.
		Cleveland, Ohio	The States of Ohio, Kentucky, that part of the State of Indiana lying south of lat. 41° N.; and the county of Erie in the State of Pennsylvania.	CLEVELAND, OHIO, including territory described in T.D. 54-734. Akron, Ohio, E.O. 4597, Feb. 25, 1927, including the territory described in T.D. 77-732. Ashtabula, 1 Conneaut, Ohio, including the territory described in T.D. 77-232. Cincinnati, Ohio, including the territory described in T.D. 75-144. Columbus, Ohio T.D. 82-9. Dayton, Ohio, including the territory described in T.D. 76-77. Erie, Pa., including territory described in T.D. 77-5. Evansville, Ind. Indianapolis, Ind. Lawrenceburg, Ind., including Greendale (E.O. 6634, Mar. 7, 1934). Louisville, Ky., including the territory described in T.D. 77-232 Owensboro, Ky., including the territory described in T.D. 80-22. Sandusky, Ohio (T.D. 81-72). Toledo, Ohio, including territory described in T.D. 71-157.
		St. Louis, Mo.	The States of Missouri and Kansas, and that part of the State of Illinois lying south of lat. 39° N.	ST. LOUIS, MO., including the territory described in T.D. 69-224. Kansas City, Mo., including Kansas City, Kans. and North Kansas City, Mo. (E.O. 8528, Aug. 27, 1940) including the territory described in T.D. 67-56. Springfield, Missouri, including all of the territory within Greene and Christian Counties, Missouri (T.D. 82-30). St. Joseph, Mo. Wichita, Kans., including the territory described in T.D. 74-93.

Regions		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Detroit, Mich.	The State of Michigan except the Island of Isle Royale and the county of Menominee, Mich.	DETROIT, including territory described in E.O. 9073, Feb. 25, 1942; 7 FR 1588; and T.D. 53738. Battle Creek, Michigan (T.D. 76–233). Grand Rapids, Michigan (T.D. 77–4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City–Flint (T.D. 79–74). Sault Ste. Marie. (T.D. 79–74).

§ 101.4 Entry and clearance of vessels at Customs stations.

(a) *Entry at Customs station.* A vessel shall not be entered or cleared at a Customs station, or any other place that is not a port of entry, unless entry or clearance is authorized by the district director for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930, as amended (19 U.S.C. 1447).

(b) *Authorization to enter.* Authorization to enter or be cleared at a Customs station shall be granted by the district director for the district in which such station or place is located provided the district director is notified in advance of the arrival of the vessel concerned and the following conditions are met:

(1) Such Customs supervision as may be necessary can be provided.

(2) All applicable Customs and navigation laws and regulations are complied with.

(3) The owner, master or agent of a vessel sought to be entered at a Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such Customs station or other place which is not a port of entry for services rendered in connection with the entry or clearance of such vessel, and

(4) Except as otherwise provided by these regulations, the Government is reimbursed by the interested parties for the expenses, including any per diem allowed in lieu of subsistence, but not the salary of a Customs officer or employee for services rendered in connection with the entry or delivery of merchandise. **[TDs 73-123, 78-130]**

(c) *Customs stations designated.* The Customs stations and the ports of entry having supervision thereof are listed below: **[TD 78-272, 79-74, 79-232, 82-93.]**

District	Customs stations	Port of entry having supervision
Portland, Maine.	Bucksport, Maine	Belfast.
	Coburn Gore, Maine	Jackman.
	Easton, Maine	Fort Fairfield.
	Forest City, Maine	Houlton.
	Hamlin, Maine	Van Buren.
	Knoxford Line (Mars Hill).	Bridgewater.
	Monticello, Maine	Houlton.
	Orient, Maine	Do.
St. Albans, Vt.	Beebe Plaine, Vt.	Derby Line.
	Canaan, Vt.	Beecher Falls.
	East Richford, Vt.	Richford.
	Newport, Vt.	Derby Line, Vt.
	North Troy, Vt.	Derby Line, Vt.
	Pittsburg, N.H.	Beecher Falls.
	West Berkshire, Vt.	Richford.
Boston, Mass.	Provincetown, Mass.	Plymouth.
Ogdensburg, N.Y.	Cannons Corners, N.Y.	Mooers.
	Churubusco, N.Y.	Chateaugay.
	Jamieson's Line, N.Y.	Trout River.
Philadelphia, Pa.	Atlantic City, N.J.	Philadelphia.
	Lewes, Del.	Do.
	Port Norris, N.J.	Do.
	Tuckerton, N.J.	Do.
Baltimore, Md.	Salisbury, Md.	Baltimore.
Miami, Fla.	Fort Pierce, Fla.	West Palm Beach.
Mobile, Ala.	Biloxi, Miss.	Mobile.
New Orleans, La.	Houma, La.	Morgan City.
Houston, Tex.	Muskogee, Okla.	Tulsa.
	Amistad Dam, Tex.	Del Rio.
Laredo, Tex.	Falcon Dam, Tex.	Roma.
	Los Ebanos, Tex.	Rio Grande City Do.
El Paso, Tex.	Antelope Wells, N. Mex. (Mail: Hachita, N. Mex.).	
	Fort Hancock, Tex.	Fabens Columbus.
	Marathon, Tex.	El Paso.
Nogales, Ariz.	Lochiel, Ariz.	Nogales.
	Tuscon, Ariz.	Do.
San Diego, Calif.	Campo, Calif.	Tecate.
Los Angeles, Calif.	Port Hueneme, Calif.	Los Angeles.
San Francisco, Calif.	Monterey, Calif.	San Francisco.

District	Customs stations	Port of entry having supervision
Anchorage, Alaska	Barrow, Alaska	Fairbanks.
	Dutch Harbor, Alaska.	Anchorage.
	Eagle, Alaska	Alcan.
	Fort Yukon, Alaska.	Fairbanks.
	Haines, Alaska	Dalton Cache.
	Hyder, Alaska	Ketchikan.
	Kaktovik (Barter Island), Alaska.	Fairbanks
	Kenai (Nikiski), Alaska.	Anchorage
	Kodiak, Alaska	Anchorage.
	Northway, Alaska	Alcan.
	Pelican, Alaska	Juneau.
	Petersburg, Alaska.	Wrangell.
Great Falls, Mont.	Wild Horse, Mont.	Great Falls.
	Willow Creek, Mont.	Do.
Pembina, N. Dak.	Grand Forks, N. Dak.	Pembina.
	Lancaster, Minn.	Noyes.
	Minot, N. Dak., International Airport	Pembina.
	Oak Island, Minn.	Warroad.
Duluth, Minn.	Crane Lake, Minn.	Duluth, Minnesota/Superior, Wisconsin.
	Ely, Minn.	Grand Portage.
Cleveland, Ohio	Fairport, Ohio	Cleveland.
	Huron, Ohio	Sandusky.
	Lorain, Ohio	Cleveland.
	Marblehead-Lakeside, Ohio	Sandusky.
	Put-in-Bay, Ohio	Do.
Detroit, Mich.	Algonac, Mich.	Port Huron.
	Alpena, Mich.	Saginaw-Bay City.
	Detour, Mich.	Sault Ste. Marie.
	Escanaba, Mich.	Do.
	Grand Haven, Mich.	Muskegon.
	Houghton, Mich.	Sault Ste. Marie.
	Marine City, Mich.	Port Huron.
	Marquette, Mich.	Sault Ste. Marie.
	Roberts Landing, Mich. (Mail Route 1, Algonac, Mich.)	Port Huron.
	Rogers City, Mich.	Saginaw-Bay City.

(d) *Temporary Customs stations.* Customs stations may be designated for a temporary time only, to provide Customs facilities where needed because of certain large-scale operations. Because these designations change from time to time they are not listed. However, current information as to the existence of such stations in any district may be obtained from the district director.

§ 101.5 Customs preclearance offices in foreign controls.

Listed below are the preclearance offices in foreign countries where United States Customs officers are stationed and the Customs officers under which they function: **[TD 78–275]**

Country	Customs office	Customs officer having supervision
The Bahamas	Freeport	District Director, Miami, Fla.
	Nassau	District Director, Miami, Fla.
Bermuda	Kindley Field	Area Director, Kennedy Airport Area, Jamaica, N.Y.
Canada	Calgary, Alberta	District Director, Great Falls, Mont.
	Montreal, Quebec	District Director, St. Albans, Vt.
	Prince Rupert, British Columbia	District Director, Anchorage, Alaska.
	Toronto, Ontario	District Director, Buffalo, N.Y.
	Vancouver, British Columbia	District Director, Seattle Wash.
	Winnipeg, Manitoba	Regional Commissioner, Chicago, Ill.

§ 101.6 Hours of business.

Except as specified in paragraphs (a)–(g) of this section, each Customs office shall be open for the transactions of general Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year:

(a) *Saturdays, Sundays and national holidays.* In addition to Saturdays, Sundays, and any other calendar day designated as a holiday by Federal statute or Executive order, Customs offices shall be closed on the following national holidays:

(1) The first day of January.

(2) The third Monday of February.

(3) The last Monday of May.

(4) The fourth day of July.

(5) The first Monday of September.

(6) The second Monday of October.

(7) The fourth Monday of October.

(8) The fourth Thursday of November.

(9) The twenty-fifth day of December.

If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed. If a holiday falls on Sunday, the day immediately following such Sunday will be observed. (5 U.S.C. 6103(b)(1)); (E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. 11)

(b) *Local conditions requiring different hours.* If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

(c) *Fixing of hours.* At each port or station where there is no full-time Customs employee, the appropriate district director shall, with the approval of the regional commissioner of Customs, fix the hours during which the Customs office will be open for the transaction of general Customs business. Notice of such hours shall be prominently displayed at the principal entrance of the office.

(d) *State and local holidays.* Each Customs office shall be open for the transaction of business on all state and local holidays occurring on days other than Saturdays, Sundays, and national holidays listed in paragraph (a) of this section. The appropriate principal field officer may excuse any employee(s) without charge to leave when a state or local holiday interferes with the performance of his work in a Customs office.

(e) *Services performed outside a Customs office.* Customs services required to be performed outside a Customs office shall be furnished between the hours of 8 a.m. and 5 p.m. (or between the corresponding hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commission of Customs) on all days when the Customs office is open for the transaction of general Customs business. The regional commissioner of Customs shall, from time to time, and upon reasonable advance notice to the principal local officer concerned, issue instructions for the furnishing of such services on Saturdays.

(f) *Customs services not within prescribed hours.* Where there is a regularly recurring need for Customs services outside the hours prescribed in paragraphs (a)-(e) of this section and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential Customs activities of the port, the full time of one or more Customs employees, the necessary number of regular tours of duty to furnish such services on all days of the year except Sundays and national holidays established with the approval of the Commissioner of Customs.

(g) *Customs services furnished private interests.* Other than as specified in this section. Customs services shall be furnished private interests only in accordance with the provisions of section 24.16 of this chapter.

§ 101.7 Customs seal.

(a) *Design.* According to the design furnished by the Department of the Treasury, the Customs seal of the United States shall consist of the seal of the Department of the Treasury surrounded by an outer circle in which appear the words "Treasury" at the top and "U.S. Customs Service" at the bottom.

(b) *Use of the Customs seal.* The Customs seal currently in official use, including the dies, rolls, plates, and like devices now in the possession of the Bureau of Engraving and Printing, shall continue to be equally effective as the official seal of the United States Customs Service and shall continue to be so used by each Customs officer and employee having possession of the seal until that particular device requires replacing and is replaced. Use of the United States Customs seal shall be restricted in the following manner:

(1) The Customs seal of the United States shall be impressed upon all official documents requiring the impress of a seal. It shall be impressed upon all marine documents and landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(2) The impress of the seal is not necessary on documents passing within the Customs Service nor shall the seal be used in the manner of a notary seal to indicate authority to administer oaths.

§ 101.8 Identification cards.

Each Customs employee shall be issued an appropriate identification card with that employee's photograph and signature, signed by the appropriate issuing officer.

PART 103—AVAILABILITY OF INFORMATION

Sec.
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Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 501, 65 Stat. 290; 5 U.S.C. 301, 552, 19 U.S.C. 66, 1624, 31 U.S.C. 483a. Additional authority and statutes interpreted or applied are cited in the text or in parentheses following the sections affected.

Source: T.D. 73-130, 38 FR 31167, Nov. 12, 1973, T.D. 81-168, 46 FR 32564, June 24, 1981, unless otherwise noted.

§ 103.0 Scope.

This part contains regulations implementing the public information provisions of the Freedom of Information Act, as amended (5 U.S.C. 552). For the purpose of this part the Office of the Chief Counsel is considered to be a part of the United States Customs Service. The regulations supplement the regulations of the Department of the Treasury concerning public access to records, which are found in 31 CFR Part 1 and which are applicable to all constituent units of the Department, including the United States Customs Service. In the event of any inconsistency between these regulations and those of the Department of the Treasury, the Department of the Treasury regulations shall govern. Included in this part are the procedures by which the public may obtain access to records maintained by the United States Customs Service. The regulations provide a uniform schedule of fees for the search and duplication of Customs opinions and rulings, orders made in the adjudication of cases, and other Customs records and documents. In addition, the part includes provisions governing the release of certain information to the press and the giving of testimony or the production of Customs documents in court proceedings. Persons seeking information or records may find it useful to consult with either the Chief, Disclosure Law Branch, United States Customs Service, Washington, D.C. 20229, the Public Information Division at Headquarters, the appropriate regional commissioner of Customs, or the public information officer in the appropriate Customs regional office, before invoking the formal procedures set forth in this part. **[T.D. 70-134]**

§ 130.1 Public reading rooms.

Each office listed below will maintain a public reading room or public reading area where the material required to be made available under 5 U.S.C. 552(a)(2) and this part may be inspected and copied: **[TDs 76-120, 76-146.]**

United States Customs Service (Headquarters),
1301 Constitution Avenue, NW., Washington, D.C. 20229.

Region I—Boston,
100 Summer Street, Suite 1819, Boston, Massachusetts 02110.

Region II—New York,
6 World Trade Center, New York, New York 10048.

Region III—Baltimore,
U.S. Customhouse, 40 S. Gay Street, Baltimore, Maryland 21202.

Region IV—Miami,
99 S.E. 5th Street, Miami, Florida 33131.

Region V—New Orleans,
Canal-LaSalle Building, Rm. 302, 423 Canal St., New Orleans, Louisiana 70130.

Region VI—Houston,
500 Dallas Street, Suite 1240, Houston, Texas 77002.

Region VII—Los Angeles,
New Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012.

Region VIII—San Francisco,
211 Main Street, Suite 1000, San Francisco, California 94105.

Region IX—Chicago,
Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

The reading rooms are open to the public during regular business hours unless other hours are posted, Monday through Friday of each week, exclusive of national holidays. A fee for copies of requested material is charged in accordance with § 103.10.

§ 103.2 Information available to the public.

(a) *General.* The Freedom of Information Act, as amended (5 U.S.C. 552), provides for access to information and records developed or maintained by Federal agencies. Subject only to the exemptions set forth in § 103.12, the public generally or any individual member is entitled to information or records which are described in paragraph (b) of this section and which are in the possession of the United States Customs Service. Access to that information is governed by the regulations in this part.

(b) *Three categories of information available.* Generally, 5 U.S.C. 552 divides agency information into three major categories and provides methods by which each category is available to the public. The three major categories, for which the disclosure requirements of the United States Customs Service are set forth in this part, are as follows:

(1) Information required to be published in the Federal Register (see § 103.3).

(2) Information required to be made available for public inspection and copying or, in the alternative, to be published and offered for sale (see § 103.4).

(3) Information required to be made available to any member of the public upon specific request (see § 103.5).

§ 103.3 Publication of information in the Federal Register.

(a) *Requirements.* Subject to the application of the exemptions described in § 103.12 and subject to the limitations provided in paragraph (b) of this section, the United States Customs Service is required, by 5 U.S.C. 552(a)(1), to separately state, publish and keep current in the Federal Register for the guidance of the public the following information:

(1) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

(2) A statement of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(3) Rules of procedure, descriptions of forms available and the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by it.

(5) Each amendment, revision, or repeal of matters referred to in subparagraphs (1) through (4) of this paragraph.

(b) *Limitations.*—(1) *Incorporation by reference in the* **Federal Register.** Matter reasonably available to an affected class of persons, whether published by a private organization or an agency of the United States, is published in the **Federal Register** for purposes of paragraph (a) of this section when it is incorporated by reference in the **Federal Register** with the approval of the Director of the Federal Register. Any matter which is incorporated by reference must be set forth in the privately- or publicly-printed document substantially in its entirely and not merely summarized or printed as a synopsis. There can be no incorporation by reference in the **Federal Register** of any matter where only a few persons having a special working knowledge of the activities of the United States Customs Service are familiar with its location and scope. The provisions of 5 U.S.C. 552(a)(1) and 1 CFR Part 20 control any incorporation of matter by reference.

(2) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in paragraph (a) of this section which is required to be published in the **Federal Register,** that person is not required in any manner to resort to, or be adversely affected by, that matter if it is not published or incorporated by reference. That is, any matter which imposes an obligation and which is not published or incorporated by reference can not adversely change or affect a person's rights.

§ 103.4 Public inspection and copying.

(a) *In general.* Subject to the application of the exemptions described in § 103.12, the United States Customs Service is required, by 5 U.S.C. 552(a)(2) and §§ 174.32 and 177.10 of this chapter, to make available for public inspection and copying or, in the alternative, promptly publish and offer for sale, the following information:

(1) Final opinions and orders, including concurring or dissenting opinions, made in the adjudication of cases:

(2) Within 120 days of issuance, any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision) issued under the Tariff Act of 1930, as amended, with respect to any Customs transaction;

(3) Those statements of policy and interpretations which have been adopted by the United States Customs Service but are not published in the **Federal Register;** and

(4) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) *Indexes.* The United States Customs Service is required by 5 U.S.C. 552(a)(2) to maintain and make available for public inspection and copying those current indexes which identify any item described in paragraphs (a)(1) through (3) of this section that is issued, adopted, or promulgated after July 4, 1967, and that is required to be made available for public inspection or published. Unless the Commissioner determines by an order published in the **Federal Register** that publication is unnecessary and impracticable, these indexes are published on a quarterly or more frequent basis and are available for purchase at each of the public reading rooms listed in § 103.1, at a cost not to exceed the direct cost of duplication.

(c) *Effect of failure to publish or make available.* No matter, described in paragraphs (a)(1) through (3) of this section which is required by this section to be made available for public inspection or published, may be relied upon, used, or cited as precedent by the United States Customs Service against a party, other than an agency, unless that party has actual and timely notice of such matter or unless the matter has been indexed and either made available for inspection or published, as provided by this section. This paragraph applies only to matters which have precedential significance and does not apply to matters which have been made available pursuant to § 103.3.

(d) *Deletion of identifying details.* To prevent an unwarranted invasion of personal privacy, in accordance with 5 U.S.C. 552(a)(2), identifying details contained in any matter described in paragraphs (a)(1) through (3) of this section are deleted before making that matter available for inspection or publication. However, in every case where identifying details are deleted, the basis for the deletion is explained in writing, giving specific reasons for the deletion and citing the applicable provision of 5 U.S.C. 552 and § 103.12, in an attachment to the document from which the identifying details have been deleted.

(e) *Public reading rooms.* The United States Customs Service has available for inspection and copying, in a reading room or otherwise, the matters described in paragraphs (a)(1) through (3) of this section which are required by paragraph (a) to be made available for public inspection or published in the current indexes. Facilities are provided whereby a person may inspect and obtain copies of the material. There is no fee for access to materials, but a fee is charged in accordance with § 103.10 for a copy of any material provided.

§ 103.5 Specific request for records.

(a) *In general.* Except with respect to the records made available under § § 103.3 and 103.4, but subject to the application of the exemptions described in § 103.12, the United States Customs Service is required, by 5 U.S.C. 552(a)(3), upon a request for reasonably-described records that conforms in every respect to the rules and procedures of this part, to make the requested records promptly available to the requester. A request or an appeal from the initial denial of a request which does not comply with the requirements set forth in this part is not subject to the time limits of § § 103.6, 103.7, and 103.8 until amended so as to comply. Nevertheless, every reasonable effort will be made to answer each request within the applicable time limits or, if necessary, to promptly advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended for consideration in accordance with this part. This section applies only to existing records which are in the possession or control of the United States Customs Service. There is no requirement that records be created or data be processed in other than the existing format in order to answer a request for records.

(b) *Requests for records not in control of the United States Customs Service—(1) Referral of request.* Where the request is for a record in the possession of, under the control of, or created by a constituent unit of the Department of the Treasury other than the United States Customs Service, the appropriate Customs officer shall transfer the request to the appropriate constituent unit and notify the requester of that transfer. Forwarding a request to another constitutent unit is not a denial of access within the meaning of these regulations. If the United States Customs Service receives a request forwarded from another constituent unit of the Department of the Treasury, the time limits for response set forth in § § 103.6(b) and 103.8(a) commence upon receipt of the request by the Disclosure Law Branch, U.S. Customs Service. If the United States Customs Service receives a request for a record that is not in the possession or control of any constituent unit of the Department of the Treasury, the appropriate Customs officer shall return the request to the sender with an explanation of that fact.

(2) *Request for advice.* If the Customs Service has a copy of a requested unclassified record that was created by a Department or agency other than a constituent unit of the Department of the Treasury, the appropriate Customs officer shall ask that Department or agency for its advice on the release of the record. The appropriate Customs officer shall advise the other Department or agency that, in the absence of timely guidance from it, the United States Customs Service will proceed to make its own determination in accordance with this part. If it becomes necessary to respond to a requester because of the time limits set forth in § § 103.6(b) and 103.8(a) without the advice of the other Department or agency, the appropriate Customs officer shall make the determination in accordance with this part and advise the requester accordingly. If the appropriate Customs officer denies access to the record under one of the exemptions set forth in § 103.12, that officer shall advise the requester of the right to appeal the denial and of the possibility of sending a request for the record directly to the originating Department or agency. If a requester appeals from a denial to the United States Customs Service, the appropriate Customs officer shall ask the originating Department or agency for timely advice on whether to release the records. Nevertheless, the ultimate decision on the appeal from a denial of access to a record rests with the Director, Office of Regulations and Rulings, as set forth in § 103.7.

(3) *Classified records.* If the Customs Service has a copy of a requested record created by a Department or agency other than a constituent unit of the Department of the Treasury, and that record is classified or contains both classified and unclassified material, the request shall be referred to the originating Department or agency for a direct response. The requester shall be notified immediately of the referral. Such referral shall not constitute a denial of the request and no appeal rights accrue to the requester.

(c) *Form of request.* Although no standard form is prescribed for a request, in order to be subject to the provisions of this section and § § 103.6 through 103.9, a request for records must—

(1) Be made in writing and signed by the person making that request;

(2) State that it is made pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), or these regulations, and have conspicuously printed on the face of the envelope the words "Freedom of Information Act Request" or "FOIA Request";

(3) Be addressed to the appropriate office or officer of the United States Customs Service, as set forth in paragraph (d) of this section;

(4) Reasonably describe the records in accordance with paragraph (e) of this section.

(5) Set forth the address where the person making the request desires to be notified of the determination as to whether the request will be granted;

(6) State whether the requester wishes to inspect the records or desires to have a copy made and furnished without first inspecting them; and

(7) State the firm agreement of the requester to pay the fees for search and duplication ultimately determined in accordance with § 103.10, or request that such fees be reduced or waived and state the justification for such request (see § 103.10(d)).

Where the initial request, rather than stating a firm agreement to pay the fee ultimately determined in accordance with § 103.10, places an upper limit on the amount the requester agrees to pay and that upper limit is likely to be lower than the estimated fee, or where the requester asks for an estimate of the fees to be charged, or if the fees are expected to exceed $50, the appropriate Customs officer shall promptly advise the requester of the estimated fee due and ask the requester to agree to pay that amount. Where the initial request includes a request for reduction or waiver of fees, the appropriate Customs officer shall determine whether to grant the request for reduction or waiver in accordance with § 103.10(d) and notify the requester of the decision. If the officer decides to charge the requester for all or part of the fees normally due, the officer shall ask the requester to agree to pay the amount so determined. The requirements of this paragraph are not met until the requester agrees, in writing, to pay the fees applicable to the request for records, if any, or has made payment in advance of the fees estimated to be due.

(d) *To whom requests for records should be addressed*—(1) *Headquarters.* Requests made by mail for records maintained at the Headquarters of the United States Customs Service should be addressed to "Freedom of Information Act Request," U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Requests may be delivered personally to the Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C.

(2) *Regional offices.* A person shall request records or information maintained in a field office of the United States Customs Service by either mailing or personally delivering the request to the regional commissioner of Customs of the region in which the field office is located. The addresses of the regional commissioners are listed in § 103.1.

(e) *Reasonable description of records.* A request for records must describe the records in reasonably sufficient detail to enable a Customs officer who is familiar with the subject area of the request to locate the records without placing an unreasonable burden upon the United States Customs Service. While no specific formula for a reasonable description of a record can be established, the requirement is usually satisfied if the requester gives the name, subject matter, and, if known, the date and location of the requested record. However, a requester should furnish any additional information which will more clearly identify the requested records. If a request does not reasonably describe the records being sought, the appropriate Customs officer shall ask the requester to refine the request. If necessary a requester may be granted a conference with knowledgeable Customs personnel. The requirement for a reasonable description is not a device for improperly withholding records from the public.

(f) *Date of receipt of request.* A request for records is considered to have been received for purposes of this part on the later of the dates on which—

(1) The requirements of paragraph (c) of this section have been satisfied; and, where applicable,

(2) The requester has agreed in writing, by executing a separate contract or otherwise, to pay the fees for search and duplication determined to be due in accordance with § 103.10; or

(3) The fees have been waived in accordance with § 103.10(d); or

(4) Payment in advance has been received from the requester.

A Customs officer or employee who receives a request for records and a separate agreement to pay, or a letter transmitting prepayment, or who issues a final notification of waiver of fees, shall stamp the date of receipt or dispatch by the responsible office on the material. The latest of those dates is the date of receipt of the request. As soon as the date of receipt has been established, the appropriate Customs officer shall acknowledge receipt and inform the requester of the title of the Customs officer who is responsible for acting on the request.

(g) *Search for record requested.* Upon the receipt of a request, the appropriate Customs officer shall attempt to identify and locate the requested records. With respect to records maintained in computerized form, a search for a record includes services functionally analogous to searches for records which are maintained in a conventional form. However, Customs personnel are not required to tabulate or compile information for the purpose of creating a record. Only records in existence at the time of the receipt of the request will be treated as falling within the scope of the request and no request for the continuing production of documents created after receipt of the request will be honored.

(h) *"Request for record" defined.* For purposes of uniformity in recordkeeping a "request for a record" is defined as a written request for a record of the U.S. Customs Service which has not been published in the Federal Register, the Customs Bulletin, by press release, or otherwise, or made available in a public reading room, or which has not previously been customarily furnished to requesters, whether or not the request makes reference to the Freedom of Information Act, as amended (5 U.S.C. 552).

§ 103.6 Grant or denial of initial request.

(a) *Officers designated to make initial determinations.*

(1) *Regional offices.* The appropriate regional commissioner of Customs shall make any initial determination on a request for a record which is maintained in that region.

(2) *Headquarters.* For records located at Customs Service Headquarters, the initial determination to grant or deny a request shall be made by the appropriate Division Director at Customs Service Headquarters having custody of or functional jurisdiction over the subject matter of the requested records. In the event the request relates to records which are maintained in an office which is not within a division, the initial determination shall be made by the individual designated for that purpose by the Assistant Commissioner or Comptroller, as appropriate, having responsibility for that office.

(b) *Time limit for initial determinations.* The time limit for making an initial determination to grant or deny a request for records, including the time for notifying the requester of that determination, is 10 days (excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of the request (see § 103.5(f)), unless the designated officer invokes an extension pursuant to § 103.8(a) or the requester otherwise agrees to an extension.

(c) *Grant of request.* If the appropriate Customs officer grants a request, and if the requester wants a copy of the requested records, that officer shall mail a copy of those records to the requester together with a statement of the fees for search and duplication at the time of the determination or promptly thereafter. If a requester wants to inspect the record, the appropriate Customs officer who grants the request shall send written notice to the requester stating the time and place of inspection and the amount of any fee involved in the request. In such a case, the appropriate Customs officer shall make the record available for inspection at the time and place stated, but in a manner so as not to interfere with its use by the United States Customs Service or to exclude other persons from making an inspection. In addition, reasonable limitations may be placed on the number of records which may be inspected by a person on any given date. The requester is not allowed to remove a record from the inspection room. If, after making inspection, the requester wants a copy of all or a portion of the requested record, the appropriate Customs officer shall supply the desired copy upon payment of the established fee prescribed in § 103.10.

(d) *Denial of request.* The Customs officer who denies a request for records (whether in whole or in part) shall mail written notice of the denial to the requester. The letter of notification shall contain (1) the physical location of the requested records, (2) the applicable exemption(s) and reason for not granting the request, (3) the name and title or position of the Customs officer who denied the request, (4) advice on the right to administrative appeal in accordance with § 103.7, and (5) the title and address of the Customs officer who is to decide any appeal.

(e) *Inability to locate records within time limits.* If a requested record cannot be located and evaluated within the initial 10-day period or the extension period allowed under § 103.8(a), the Customs officer who is responsible for the initial determination shall continue to search for the records. However, that officer shall also notify the requester of the facts and inform the requester that he or she may consider the notification to be a denial of access within the meaning of paragraph (d) of this section, and provide the requester with the address for the submission of an administrative appeal. The requester may also be invited, in the alternative, to agree to a voluntary extension of time in which to locate and evaluate the records. A voluntary extension of time does not waive a requester's right to appeal any ultimate denial of access or to appeal a failure to locate the records within the voluntary extension period.

§ 103.7 Administrative appeal of initial determination.

(a) *To whom appeals should be submitted.* A requester may submit an administrative appeal to the Director, Office of Regulations and Rulings, within 35 days after the date of notification described in § 103.6 or the date of the letter transmitting the last records released, whichever is later. A requester shall mail or personally deliver an appeal to the United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

(b) *Form of appeal.* The Administrative appeal shall—

(1) Be in writing and signed by the requester,

(2) Have conspicuously printed on the face of the envelope the words "Freedom of Information Act Appeal";

(3) Reasonably describe, in accordance with § 103.5(e), the records to which the appeal relates;

(4) Set forth the address where the requester desires to be notified of the determination on appeal;

(5) Specify the date of the initial request and the date and control number of the letter denying the initial request; and

(6) Petition the Director, Office of Regulations and Rulings, to grant the request for records and state any arguments in support thereof.

(c) *Disposition of appeal.* The Customs officer or employee who receives an appeal shall stamp the date of receipt on the appeal and the stamped date is the date of receipt for purposes of the appeal. The Director, Office of Regulations and Rulings, shall acknowledge and advise the appellant of the date of receipt and of the date that a response is due under this paragraph. The Director shall affirm the initial denial (in whole or in part) or grant the request for records and notify the appellant of that determination by letter mailed within 20 days (exclusive of Saturdays, Sunday, and legal public holidays) after the date of receipt of the appeal, unless extended pursuant to § 103.8(a). The purpose of the letter of denial is to inform the appellant of the reason for the denial and the right to judicial review of that denial under 5 U.S.C. 552(a)(4)(B). If the Director is unable to act on an appeal within the 20-day period (or any extension thereof pursuant to § 103.8(a)), the Director shall send written notice of that fact to the appellant. In those circumstances, an appellant is entitled to commence an action in a district court as provided in § 103.9 despite any continuation in the processing of an appeal. However, the appellant may also be invited, in the alternative, to agree to a voluntary extension of time in which to decide the appeal. A voluntary extension does not waive the right of the appellant to ultimately commence an action in a United States district court on the appellant's request.

§ 103.8 Time extensions.

(a) *Ten-day extension.* In unusual circumstances, the Customs officer who is responsible for deciding an initial request or an appeal may extend the time limitations set in §§ 103.6 and 103.7 after written notice to the requester or appellant. This notice must state the reason for the extension and the date on which the determination is expected to be dispatched. Any extension or extensions of time are limited to a cumulative total of not more than 10 additional working days. (For example, if an extension pursuant to this paragraph is invoked in connection with an initial determination, any unused days of the extension period may be invoked in connection with the determination on administrative appeal by written notice from the Director, Office of Regulations and Rulings, who is to make the appellate determination. If no extension is sought for the initial determination, an extension of 10 days may be added to the ordinary 20-day period for appellant review.) Generally, extensions will be invoked only to the extent reasonably necessary to properly respond to a request. As used in this paragraph, "unusual circumstances" means at least one of the following:

(1) The need to search for and collect the requested records from field facilities or other establishments in buildings other than the building in which the office of the Customs officer to whom the request is made is located.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another Department or agency having a substantial interest in the determination of the request, among two or more constituent units within the Department of the Treasury, or within offices of the United States Customs Service (other than the legal staff or Public Affairs Division) having substantial subject-matter interest therein. Consultations with personnel of the Department of Justice concerned with requests for records under the Freedom of Information Act, as amended (5 U.S.C. 552), do not constitute a basis for an extension under this subparagraph.

(b) *Extension by judicial review.* If the United States Customs Service fails to comply with the time limitations specified in §§ 103.6 and 103.7 and the requester commences an action under § 103.9, the court in which the suit was initiated may retain jurisdiction and allow the United States Customs Service additional time to review its records, if the Customs Service shows the existence of exceptional circumstances and the exercise of due diligence in responding to the request.

§ 103.9 Judicial review.

(a) *Failure to comply with time limitations.* If the United States Customs Service fails to comply with the time limitations specified in § § 103.6, 103.7 or 103.8, a requester is considered to have exhausted the administrative remedies with respect to the request.

(b) *Procedure of initiating judicial review.* If a request for records is denied upon appeal pursuant to § 103.7, or if no determination is made within the 10-day or 20-day periods specified in § § 103.6 and 103.7, respectively, together with an extension pursuant to § 103.8(a) or by agreement of the requester, the requester may commence an action under 5 U.S.C. 552(a)(4)(B) in a United States district court in the district (1) in which the requester resides, (2) in which the requester's principal place of business is located, (3) in which the records are situated, or (4) in the District of Columbia. Service of process in that action is governed by the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. The Chief Counsel, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 is the officer designated to receive any service of process.

(c) *Proceeding against officer or employee.* Under 5 U.S.C. 552(a)(4)(F), the Special Counsel, Merit Systems Protection Board, has authority, upon the issuance of a written finding by a court that the Customs officer or employee who was primarily responsible for withholding a record may have acted arbitrarily or capriciously, to initiate a proceeding to determine whether disciplinary action is warranted against that officer or employee. The Special Counsel, after investigation and consideration of the evidence submitted, submits its findings and recommendations to the Commissioner of Customs and the Secretary of the Treasury. The Special Counsel also sends copies of the findings and recommendations to the officer or employee or the representative of that officer or employee.

§ 103.10 Fees for services.

(a) *In general.* (1) The fees prescribed in this section are for search and duplication and under no circumstances is there a fee for determining whether an exemption can or should be asserted, for deleting exempt matter being withheld from records to be furnished, or for monitoring a requester's inspection of records made available in this manner.

(2) Customs publications which are available for sale through the Government Printing Office are on the shelves of the reading rooms and similar public inspection facilities, but those publications are not available for sale at those facilities. Those publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
However, pages from those publications may be copied at the public inspection facilities in accordance with the schedule of fees set forth in paragraph (g) of this section.

(b) *When charged.* Unless charges are inapplicable, or are waived or reduced in accordance with paragraph (c) or (d) of this section, fees are charged in accordance with the schedule contained in paragraph (g) of this section for services rendered in responding to requests for records.

(c) *Services performed without charge*—(1) *Certain classes of records.* The Commissioner of Customs or any of the Commissioners designees may deterimine, under the rulemaking procedures of 5 U.S.C. 553, which classes of records under their control may be provided to the public without charge, or at a reduced charge.

(2) *Records provided to government units.* Normally, in accordance with paragraph (d)(2)(ii) of this section, no charge is made for providing records to Federal, State, or foreign governments, international governmental organizations, or local governmental agencies or offices.

(d) *Waiver or reduction of fees*—(1) *Records unavailable or exempt.* Fees may be waived or reduced at the discretion of the Customs officer who determines the availability of records, if the record is not found or is exempt from disclosure.

(2) *Request for waiver or reduction of fees.* Fees may be waived or reduced on a case by case basis in accordance with this paragraph by the Customs officer who determines whether to release the record. A request for a waiver or reduction of fees must be in writing. The appropriate Customs officer shall waive or reduce a fee if the officer determines either that—

(i) The records are being requested by, or on behalf of, an individual who in writing, under penalty or perjury, demonstrates indigency to the satisfaction of the officer and that compliance with the request does not constitute an unreasonable burden on the United States Customs Service; or

(ii) A waiver or reduction of the fees is in the public interest because furnishing the information primarily benefits the general public.

(3) *Appeal from denial of request.* An appeal from a denial of a request for waiver or reduction of fees is decided under the criteria set forth in subparagraph (2) of this paragraph by the Director, Office of Regulations and Rulings. An appeal shall be in writing and mailed to the Director within 35 days of the denial of the initial request for waiver or reduction. An appeal under this paragraph is entitled to a prompt decision.

(e) *Avoidance of unexpected fees.* In order to protect a requester from unexpected fees, a requester is required to state in the request an agreement to pay the fees determined in accordance with paragraph (g) of this section or to state an acceptable upper limit on the cost of processing the request. If the fee for processing the request is estimated to exceed that limit, or if the requester has failed to state a limit and the cost is estimated to exceed $50 and there is no decision to waive or reduce the fees, the appropriate Customs officer shall—

(1) Inform the requestor of the estimated costs;

(2) Extend an offer to the requester to confer with Customs personnel in an attempt to reformulate the request in a manner which will reduce the fee and still meet the needs of the requester, and

(3) Inform the requester that the running of the time period within which a determination on the request must be made is suspended until the request is reformulated in

manner to reduce the cost or until the requester pays or agrees to pay the estimated cost.

(f) *Form of payment.* (1) A requester shall pay by a check or money order that is payable to the order of the United States Customs Service.

(2) If the estimated cost exceeds $50, the requester may be required to enter into a contract for the payment of actual costs, as determined in accordance with paragraph (g) of this section, which contract may provide for prepayment of the estimated costs in whole or in part.

(g) *Amount to be charged for specified services.* A fee for a service performed is imposed and collected as set forth in this paragraph. The Commissioner of Customs or the Commissioner's designee may set an appropriate fee for any service not described below. These extraordinary fees are imposed and collected pursuant to 31 U.S.C. 483a, subject to the constraints imposed by 5 U.S.C. 552(a)(4)(A).

(1) *Duplication.* (i) The charge for photocopies per page up to 81/2″ × 14″ is at the rate of $0.10 each, except that no charge is imposed for copying 10 pages or less when less than one hour is spent in locating the records requested.

(ii) The charge for photographs, films and other materials is their actual cost. The United States Customs Service may furnish the records to be released to a private contractor for copying and charge the person requesting the records the actual cost of duplication charged by the private contractor. No fee is charged where the requester furnishes the supplies and equipment and makes the copies at the Government location.

(2) *Unpriced printed materials.* The charge for unpriced printed material, which is available at the location where requested and which does not require duplication for copies to be furnished, is at the rate of $0.25 for each twenty-five pages or fraction thereof.

(3) *Search services.* The charge for services of personnel involved in locating records is $5 for each hour or fraction thereof, except that no charge is imposed for a search of less than one hour. Where a computer search is required because of the nature of the records sought and the manner in which such records are stored, the fee is $5 for each hour or fraction thereof of personnel time associated with the search plus the actual cost of extracting the stored information in the format in which it is normally produced. This actual cost of extracting information is based on computer time and supplies necessary to comply with the request.

(4) *Searches requiring travel or transportation.* The charge for transporting a record from one location to another, of for transporting a Customs officer or employee to the site of requested records when it is necessary to locate rather than examine the records, is the actual cost of the transportation.

§ 103.11 Specific Customs Service records subject to disclosure.

(a) *Administrative staff manuals and instructions.* Except as exempted by § 103.12, all administrative staff manuals and instructions to staff that affect any member of the public, and indexes thereto, are available for public inspection and copying in the United States Customs Service public reference facilities (see § 103.1), including the following: **[TD 80-160]**

Catalogue of Customs Forms.

Computer printout of precedent cases decided by the Office of Regulations and Rulings, Headquarters, United States Customs Service.

Customs Information Exchange Rulings and Rulings issued by the Office of Regulations and Rulings, organized chronologically by year, with identifying data deleted pursuant to §§ 103.12 and 103.14.

Customs Simplification Act (C.S.A.) Series Letters and Index (identifying information deleted pursuant to §§ 103.12 and 103.14).

Customs Statistical Manual.

Import Requirements on Articles Assembled Abroad from U.S. Components (Item 807.00, TSUS).

KWIC Index of United States Customs Service circulars letters, and supplementary monthly checklists.

Synopsis of Decisions of the Duty Assessment Process.

(b) *Other Custom Records.* In general, all other documents issued by the Secretary of the Treasury, the Commissioner of Customs, or other officers of the Department of the Treasury or of the United States Customs Service in matters administered by the United States Customs Service, if reasonably described, and unless exempted from disclosure under § 103.12, are available. The classes of records of the United States Customs Service which may be made available under this paragraph upon written request submitted in accordance with § 103.5 include, but are not limited to the following:

(1) Records relating to—(i) Comments submitted by private parties (which are not considered to include foreign governments) in response to a published notice of proposed rulemaking and of proposed changes in tariff classification, unless the submitter states that the information is privileged or confidential, giving reasons therefor, and the Commissioner of Customs agrees that the information contained therein is exempt from disclosure under § 103.12;

(ii) Advisory committees on Customs matters;

(iii) Rosters of licensed customhouse brokers;

(iv) Names of individual licensed customhouse brokers;

(v) Names and titles of all Customs personnel;

(vi) performance awards;

(vii) Suggestion awards;

(viii) The administration of and decisions concerning import quotas; and

(ix) Customs laboratory methods.

(2) Decisions concerning—(i) Matters arising under the Tariff Schedules of the United States (19 U.S.C. 1202);

(ii) Whether or not specific items, articles, or merchandise qualify for entry under the Trade Fair Act of 1959 (19 U.S.C. 1751 *et seq.*), and the disposition of articles previously entered under the Trade Fair Act; Customs participation and assistance at Trade Fairs;

(iii) The dutiable status of gifts pursuant to section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321);

(iv) The eligibility of vehicles used in international traffic pursuant to section 332(a), Tariff Act of 1930 (19 U.S.C 1322(a)), and other instruments of international traffic generally for duty-free entry;

(v) Prohibition from entry of merchandise produced by convict, forced, or indentured labor (19 U.S.C. 1307);

(vi) The entry or valuation of merchandise;

(vii) Liens in cases arising under section 564, Tariff Act of 1930, as amended (19 U.S.C. 1564);

(viii) Bills of lading, carriers' certificates, or rights in respect of merchandise, cases arising under section 483 or 484(c), (h), or (i), Tariff Act of 1930, as amended (19 U.S.C. 1483, 1484(c), (h), (i));

(ix) Trademarks, trade names, copyrights, patents, and related matters;

(x) Country of origin marking requirements of section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304);

(xi) Psittacine or other birds, bird feathers, bird skins, monkeys, dogs, cats, and other animals and pets prohibited entry or subject to restrictions and controls on entry;

(xii) Entry of articles admitted temporarily free of duty under bond as provided in schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), and entry of articles admitted temporarily free of duty under A.T.A. Carnets, as provided in § 114.22(a) and (b) of this chapter;

(xiii) Tonnage taxes (regular, special, and discriminatory) and light money;

(xiv) The entry, clearance and use of vessels and permits for them to proceed coastwise;

(xv) The regulation of vessels in the foreign, coastal, fishing, and other trades of the United States;

(xvi) The limitation of the use of foreign vessels in waters under the jurisdiction of the United States;

(xvii) Salvage operations by vessels within the territorial waters of the United States (46 U.S.C. 316);

(xviii) The assessment and collection of duties on equipment or repairs of vessels or aircraft under section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), and the remission or refund of such duties;

(xix) Requirements for entry, clearance, and use of aircraft;

(xx) The arrival or departure and the use of motor vehicles, railway trains, or other vehicles;

(xxi) Adequacy of premises at Customs bonded warehouses and control of the merchandise stored therein;

(xxii) Use of protective Customs seals and labels; and

(xxiii) The itineraries of foreign vessels which had been submitted for an advisory ruling to determine whether the primary object of a contemplated voyage would be considered unlawful coastwise trade (see § 4.80a(d) of this chapter).

§ 103.12 Exemptions.

Pursuant to 5 U.S.C. 552(b), the disclosure requirements of 5 U.S.C. 552(a) are not applicable to U.S. Customs Service records which relate to the following:

(a) *Matters kept secret pursuant to Executive Order.* Matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which are, in fact, properly classified pursuant to such Executive Order (see 31 CFR Part 2).

(b) *Certain internal rules and procedures.* Information relating solely to the internal personnel rules and practices of an agency.

(c) *Matters exempt from disclosure by statute.* Information specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), if the statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(d) *Privileged or confidential information.* Trade secrets and commercial or financial information obtained from any person which is privileged or confidential. **[TDs 76-165, 76-198.]**

(e) *Certain inter-agency or intra-agency correspondence.* Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency.

(f) *Material involving personal privacy.* Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(g) *Certain investigatory records.* Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would—

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical security of law enforcement personnel.

§ 103.13 Segregability of records.

(a) *Reasonably segregable portions.* Where the record requested contains information which is exempt from disclosure under 5 U.S.C. 552(b) and § 103.12, the reasonably segregable portions of the record shall be made available to the requester. For purposes of this section, the term "reasonably segregable portions" means those portions of the record: (1) which are not exempt from disclosure by 5 U.S.C. 552(b) and § 103.12; (2) which, after deletion of the exempt material, still convey meaningful and nonmisleading information; and (3) from which it can reasonably be assumed that a skillful and knowledgeable person could not reconstruct the exempt portions.

(b) *Petitions by American manufacturers, producers, or wholesalers.* Identifying data is not to be deleted from petitions filed by American manufacturers, producers, and wholesalers pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516). See Part 175 of this chapter.

§ 103.14 Information on vessel manifests and summary statistical reports.

(a) *Disclosure to members of the press.* Although the following classes of information are exempt from the requirement of disclosure under the provisions of § 103.12, accredited representatives of the press, including newspaper, commercial magazines, trade journals, and similar publications may be permitted to examine vessel manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data not of a confidential nature, subject to the following rules:

(1) Of the information and data appearing on outward manifests, only the name and address of the shipper, general character of the cargo, number of packages and gross weight, name of vessel or carrier, port of exit, port of destination, and country of destination may be copied and published. However, if the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure of the above information is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the public.

(2) Commercial or financial information, such as the names of the consignees, and marks and numbers shall not be copied from outward manifests or any other papers.

(3) On the information shown on inward manifests, only the name of the consignee, the general character of the commodity, the quantity (or value), name of vessel, and the country of dispatch shall be copied and published. When an inward manifest shows both quantity and value of the commodity, either may be copied and published, but not both in any instance.

(b) *Review of data.* All copies and notations from inward or outward manifests shall be submitted for examination by a Customs officer designated for that purpose.

(c) *Disclosure to the public.* Members of the public shall be permitted to obtain information from, but not examine, vessel manifests, subject to the rules set forth in paragraphs (a) and (b) of this section. However, importers and exporters or their duly authorized brokers, attorneys, or agents may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(d) *Suspension of disclosure.* (1) Inward manifest. Except as provided in § 103.17, upon written application of a consignee or importer, access to the name of such consignee or importer, on an inward manifest will thereafter be refused.

(2) Outward manifest. If a shipper wishes to request confidential treatment by Customs of the shipper's name and address contained in an outward manifest, the following procedure shall be followed:

(i) A shipper, or authorized employee or official of the shipper, must submit a certification claiming confidential treatment of the shipper's name and address. The certification shall include the shipper's Internal Revenue Service Employer Number, if available.

(ii) There is no prescribed format for a certification.

(iii) The certification must be submitted to the Regional Commissioner for the Region in which the port of exportation is located.

(iv) Each certification will be valid for a period of two (2) years from the date of its submission to Customs.

(3) If any individual shall abuse the privilege granted him of examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers. **[TD81-19]**

§ 103.15 Sanctions for improper actions by Customs officers or employees.

(a) The improper disclosure of the confidential information contained in Customs documents, or the disclosure of information relative to the business of one importer or exporter that is acquired by a Customs officer or employee in an official capacity to any person not authorized by law or regulations to receive this information is a ground for dismissal from the United States Customs Service, suspension, or other disciplinary action, and if done for a valuable consideration subjects that person to criminal prosecution.

(b) Sanctions for improper denials of information by Customs officers or employees are set forth in § 103.9(c).

§ 103.16 Information concerning fines, penalties, and forfeiture cases.

Except as otherwise provided in these regulations or in other directives (including those published as Treasury Decisions), district directors of Customs and other Customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases until customs action is completed. After the penalty proceeding is closed by payment of the claim amount, payment of a mitigated amount, or judicial action, the identity of the violater, the section of the law violated, the amount of penalty assessed, loss of revenue, mitigated amount (if applicable), and the amount of money paid may be disclosed to the public by the appropriate district director of Customs. Public disclosure of any other item of information concerning such cases, whether open or closed, shall only be made in conformance with the procedures provided in § 103.5.

§ 103.17 Testimony or the production of documents in court.

(a) *General.* In answer to a legal process or demand from a court issued on behalf of the United States or an officer thereof, Customs officers or employees shall produce in court, and may testify with respect to, any official Customs papers or documents demanded which are in Customs custody. When the process or demand is issued on behalf of a party other than the United States, Customs officers or employees shall produce in court, and may testify with respect to, those papers and documents, but only to the extent that the party on whose behalf the papers or documents are demanded is permitted under these regulations to inspect or copy those papers or documents. An exception to the above two rules may be made only on the written order of the Commissioner of Customs or the Commissioner's designee. When requested, copies may be authenticated pursuant to the provisions of section 1733, title 28, United States Code.

(b) *Request of Customs Court.* Except as stated in § 103.12, nothing in this part precludes Customs officers or employees from producing in the United States Customs Court, and Customs papers or documents, in Customs custody, or from testifying or otherwise rendering all proper assistance to the court in proceedings before it when request therefor is made by the court; nor from furnishing to counsel for the United States information in, and permitting inspection of, Customs papers and documents requested by such counsel, nor from testifying on behalf of the United States or otherwise assisting such counsel in the performance of official duties.

(c) *Subpoena or subpoena duces tecum.* Upon being served with a subpoena or subpoena duces tecum from a court or court officer calling for testimony or the production of papers or documents in cases not covered by paragraph (a) or (b) of this section, or in cases where the testimony or documents desired would disclose matters the disclosure of which would be contrary to these regulations, the Customs officer involved shall refer the matter to Headquarters for instructions, with a report that specifically describes the testimony or documents desired. The Customs officer involved shall include in the report his or her opinion on whether the giving of the testimony or the furnishing of the documents would disclose information not permitted to be disclosed under these regulations. That officer also shall state in what particulars, if any, the disclosure of the information and work incidental to that disclosure would interfere with the orderly conduct of Customs business. If instructions are not received prior to the date set or appearance or production of documents, or if the Commissioner of Customs or the Commissioner's designee declines to permit their production or the disclosure of the information contained therein or otherwise within the knowledge of the Customs officer or employee whose testimony is requested, the Customs officer or employee shall appear in court or before the officer concerned in answer to the subpoena and respectfully decline to produce the documents called for or to testify, except to the extent specifically authorized elsewhere in this section, citing this regulation as authority for the refusal. If the matter has not already been referred to Headquarters for instructions, the Customs officer or employee shall advise the court or officer that it will be so referred.

(d) *In camera inspection of records.* Nothing in this section authorizes Customs officers or employees to withhold records from a court, pursuant to its order, for *in camera* inspection to determine the property of claimed exemptions to disclosure.

PART 111—CUSTOMHOUSE BROKERS

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Authority: R.S. 251, secs. 624, 641, 46 Stat. 759, as amended, 77 A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gn. Hdnte. 11), 1624, 1641.

Source: T.D. 70-134, 35 FR 9254, June 16, 1970, unless otherwise noted.

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of persons desiring to transact business as customhouse brokers, the qualifications required of applicants, and the procedure for applying for licenses. This part also prescribes the duties and responsibilities of customhouse brokers, the grounds for revocation or suspension of licenses, and the procedures for such revocation or suspension.

Subpart A—General Provisions

§ 111.1 Definitions.

When used in this part, the following terms shall have the meanings indicated:

(a) *Person*. "Person" includes individuals, partnerships, associations, and corporations.

(b) *Customhouse broker*. "Customhouse broker" means a person who is licensed under this part to transact Customs business on behalf of others.

(c) *Broker*. "Broker" means "customhouse broker."

(d) *Treasury Department or any representative thereof*. "Treasury Department or any representative thereof" includes any office, officer, or employee of the Treasury Department, wherever located.

(e) *Books and papers*. "Books and papers" include all books, accounts, records, papers, documents, powers of attorney, data processing materials (other than cards, magnetic tapes and discs, and incidental intermediate forms temporary in nature), and correspondence of a broker relating to his Customs business.

(f) *Freight forwarder*. "Freight forwarder" means a person engaged in the business of dispatching shipments on behalf of other persons for a consideration in foreign commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments.

(g) *Officer of an association or corporation.* "Officer of an association or corporation" means a person who has been elected, appointed, or designated as an officer of an association or corporation in accordance with statute, the articles of incorporation, articles of agreement, charter, or bylaws of the association or corporation.

§ 111.2 License required.

A person shall obtain the license provided for in this part in order to transact the business of a broker. A separate license is required for each Customs district.

§ 111.3 Transactions for which license is not required.

A license is not required to engage in the following transactions with the Treasury Department or any representative thereof:

(a) *For one's own account.* An importer or exporter transacting Customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(b) *As employee of brokers.* An employee of a broker, acting solely for his employer, is not required to be licensed where:

(1) *Authorized to sign Customs documents.* The broker has authorized the employee to sign Customs documents on his behalf, and has filed a power of attorney for that purpose with the district director and at each port within the district where the broker wishes the employee to sign Customs documents. Only employees who are residents of the United States may be authorized to sign Customs documents. Or,

(2) *Authorized to transact other business.* The broker has filed with the district director a statement identifying the employee as authorized to transact business on his behalf. Such statement shall also be filed at each port within the district where the broker wishes the employee to act for him.

Where the employee is given authority under either (1) or (2) of this paragraph, the broker must promptly give notice of the withdrawal of authority of any such employee and must exercise such supervision of his employees as will insure proper conduct on the part of the employees in the transaction of Customs business. Each broker will be held strictly responsible for the acts or omissions of his employees within the scope of their employment, and for acts or omissions of such employees which, in the exercise of reasonable care and diligence, the broker should have foreseen.

(c) *Marine transactions.* A person transacting business in connection with entry or clearance of vessels or other regulation of vessels under the navigation laws is not required to be licensed as a broker.

(d) *Transportation in bond.* Any carrier bringing merchandise to the port of arrival or any bonded carrier transporting merchandise for another may make entry for such merchandise for transportation in bond without being licensed as a broker. **[TD 78-99.]**

§ 111.4 Representation before Government agencies.

(a) *Agencies within the Treasury Department.* A broker who represents a client in the importation or exportation of merchandise may represent the client before the Treasury Department or any representative thereof on any matter concerning such merchandise except that he shall not represent the client before Customs officers in a Customs district in which he is not licensed.

(b) *Agencies not within the Treasury Department.* In order to represent a client before any agency not within the Treasury Department, a broker shall comply with any regulations of such agency governing the appearance of representatives before it.

§ 111.5 Prior licenses.

Licenses issued prior to the effective date of the regulations in this part shall continue in force and effect, subject to cancellation, suspension or revocation as provided in Subpart D of this part.

Subpart B—Procedure to Obtain License

§ 111.11 Basic requirements.

(a) *Individual.* An individual must:

(1) Be a citizen of the United States, but not an officer or employee of the United States;

(2) Be at least 21 years of age;

(3) Be of good moral character; and

(4) Establish through an examination that he has sufficient knowledge of Customs and related laws, regulations, and procedures to render valuable service to importers and exporters. Satisfactory knowledge is established in part by attaining a grade of at least 75 percent on the examination.

(b) *Partnership.* A partnership must:

(1) Have two members of the partnership who are licensed brokers, and

(2) Establish that it will have an office in which its Customs transactions will be performed by a licensed member of the partnership, or a qualified employee under the responsible supervision and control of the licensed members.

(c) *Association or corporation.* An association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customhouse brokerage business;

(2) Have at least two officers who are licensed brokers; and

(3) Establish that it will have an office in which its Customs transactions will be performed by a licensed officer or a qualified employee under the responsible supervision and control of the licensed officers.

§ 111.12 Application for license.

(a) *Submission of application and fee*—(1) *Application.* An application for a broker's license shall be submitted in duplicate to the district director of the district in which the applicant intends to do business. The application shall be under oath and executed on Customs Form 3124. The application shall be accompanied by the fee prescribed in paragraph (a)(2) of this section and one copy of the attachment required by the application form (Articles of Agreement or an affidavit signed by all partners, Articles of Agreement of the association, or the Articles of Incorporation). If the applicant proposes to operate under a trade or fictitious name in one or more States within the district, evidence of the applicant's authority to use the name in each such State must accompany the application. An application for an individual license must be submitted not later than 30 days before the scheduled examination which the applicant wishes to take. **[TDs 74-200, 78-99.]**

(2) *Fee.* The fee to accompany the application for a broker's license shall be $200, except that a refund of $100 will be made to an applicant failing either to appear for or to pass the examination required by § 111.11(a)(4) (see paragraphs (d) and (e) of § 111.13). A check or money order shall be made payable to the United States Customs Service.

(b) *Posting notice of application.* Upon receipt of the application the district director shall post a notice that the application has been filed. The notice shall be posted conspicuously for at least 2 weeks in the customhouse at the headquarters port and at the subports where the applicant proposes to maintain an office. The notice shall give the name and address of the applicant and, if the applicant is a partnership, association, or corporation, the names of the members or officers thereof who are licensed as brokers. The notice shall invite written comments or information regarding the issuance of the license.

(c) *Withdrawal of application.* If the applicant advises before the date of an examination that he wishes to withdraw his application, the application shall be treated as withdrawn and the district director shall refund the application fee to the applicant.

§ 111.13 Examination of applicant for individual license.

(a) *Examination.* The written examination shall be designated to determine the applicant's knowledge of Customs and related laws, regulations, and procedures and his fitness to render valuable service to importers and exporters. The examination will be prepared and graded in Headquarters, U.S. Customs Service. **[TD 76-329.]**

(b) *Date and place of examination.* Examinations will be given at each district office on the first Monday in April and October. The district director shall give the applicant notice of the exact time and place where the examination will be given.

(c) *Special examination.* The Commissioner may authorize a special examination for an applicant when a partnership, association, or corporation has less than two licensed members or officers. He may also authorize a special examination for one who will be authorized to continue the business of an individual broker. Application and a statement of the reasons for the necessity of a special examination shall be filed with the district director in accordance with § 111.12(a).

(d) *Failure to appear for examination.* If the applicant fails to appear for a scheduled examination without notification in advance or explanation of the circumstances which made it impossible or impracticable to give such notification, the district director shall notify him that the application is denied because of failure to appear for examination to establish his qualifications for a license. The district director shall refund to the applicant one-half of the application fee.

(e) *Failure to pass examination.* If the applicant does not obtain a grade of at least 75 percent, the Commissioner will notify him and the district director that the application for a license is denied because of failure to pass the examination. The district director shall refund to the applicant one-half of the application fee.

(f) *Passing grade on examination.* If the applicant obtains a passing grade, the Commissioner will return the application to the district director for further processing of the application.

§ 111.14 Investigation of the applicant.

(a) *Individual license*—(1) *Applicant passing examination.* If the applicant passes the examination, the district director shall refer the application to the special agent in charge for an investigation and report.

(2) *Applicant licensed in one district.* If the applicant has a license in one district, the district director shall immediately refer the application to the special agent in charge for an investigation and report.

(b) *Partnership, association, or corporation license.* The district director shall immediately refer an application for a partnership, association, or corporation license to the special agent in charge for investigation and report.

(c) *Scope of investigation.* The investigation shall ascertain facts relevant to the question whether the applicant is qualified and shall cover, but need not be limited to:

(1) The accuracy of the statements made in the application;

(2) The business integrity of the applicant; and

(3) When the applicant is an individual (including a member of a partnership or an officer of an association or corporation), the character and reputation of the applicant.

(d) *Report and return of the application.* The special agent in charge shall return the application with his report and recommendation to the district director who requested the investigation. The district director shall forward the originals of the application and the agent's report to the Commissioner. The district director shall also submit his recommendation for action on the application.

(e) *Additional investigation or examination.* The Commissioner may require further investigation to be conducted if additional facts are deemed necessary to pass upon the application. The Commissioner may also require the applicant (or in the case of a partnership, association, or corporation, one or more of its members or officers) to appear in person before him or before one or more representatives of the Commissioner for the purpose of undergoing additional written or oral examination into the applicant's qualifications for a license.

§ 111.15 Issuance of license.

If the Commissioner finds that the applicant is qualified, he will issue a license. A license for an individual who is a member of a partnership or an officer of an association or corporation will be issued in the name of the individual licensee and not in his capacity as a member or officer of the organization with which he is connected. The license shall be forwarded to the district director, who shall deliver it to the licensee. The district director shall maintain an alphabetical list of brokers licensed in his district which list shall be available to the public.

§ 111.16 Denial of license.

(a) *Notice of denial.* If the Commissioner determines that the application for a license should be denied for any reason, notice of denial shall be given by him to the applicant and to the director of the district in which the application was filed. The notice of denial shall state the reasons why the license was not issued.

(b) *Grounds for denial.* The causes sufficient to justify denial of an application for a license shall include, but need not be limited to:

(1) Any cause which would justify suspension or revocation of the license of a broker under the provisions of § 111.53;

(2) The failure to meet any requirement set forth in § 111.11;

(3) A failure to establish the business integrity and good character of the applicant;

(4) Any willful misstatement of pertinent facts in the application;

(5) Any conduct which would be deemed unfair in commercial transactions by accepted standards;

(6) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of such conduct.

§ 111.17 Review of the denial of a license.

(a) *By the Commissioner.* Upon the denial of an application for a license, the applicant may file with the Commissioner of Customs, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Commissioner within 60 days of the denial. **[TD 74-272.]**

(b) *By the Secretary.* Upon the decision of the Commissioner affirming the denial of an application for a license, the applicant may file with the Secretary of the Treasury, in writing, a request for such additional review as the Secretary shall deem appropriate. This request must be received by the Secretary within 60 days of the Commissioner's affirmation of the denial of an application for a license. **[TD 74-272.]**

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12 of this part.

§ 111.19 Licenses for additional districts.

A license authorizes the transaction of Customs business only in the district for which issued. Licenses for additional districts may be obtained by:

(a) Filing with the district director of the district for which a license is desired the application prescribed in § 111.12(a). Upon receipt of the application, the district director shall follow the procedure set forth in § § 111.12(b) and 111.14;

(b) Submitting the fee of $200 with the application; and

(c) Establishing upon investigation that the applicant is prepared and qualified to render efficient service in the additional district. This includes a showing that the licensed members of a partnership or the licensed officers of an association or corporation will exercise responsible supervision and control of the proposed office. The licensed members of a partnership and the licensed officers of an association or corporation are not required to be licensed as individuals in the district for which the partnership, association or corporation is applying for an additional license. An individual licensed as a broker in one district may or may not, at the discretion of the Commissioner, be required to take another examination when applying for an additional license. (R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended, sec. 501, 65 Stat. 290 (19 U.S.C. 66, 1624, 1641, 31 U.S.C. 483(a)))

Subpart C—Duties and Responsibilities of Customhouse Brokers

§ 111.21 Record of Transactions.

Each broker shall keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file a copy of each entry made by him with all supporting papers, except those documents he is required to file with Customs, and copies of all his correspondence and other papers relating to his Customs business.

§ 111.22 Additional record of transactions.

(a) *Additional requirement.* In addition to the regular records of account required by section 111.21, each broker shall keep current a record of all his Customs transactions in the format set forth in paragraph (d) of this section, unless an exemption has been granted under the authority of paragraph (b) of this section. If a transaction has been handled only in part by the broker, he shall supply only the information required by this section which relates to his transaction. **[TDs 72-253, 78-138.]**

(b) *Exemption.* If the information required in paragraph (a) is disclosed in other books and records regularly kept and maintained by a broker and if such information is in a systematic, convenient, and readily available form, the district director may in writing exempt the broker from the requirements of paragraph (a) of this section. A written request for exemption shall be addressed to the district director and shall include:

(1) A statement of facts as to the records kept; and

(2) An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without prior written approval of the district director. **[TD 82-33.]**

(c) *Withdrawal of exemption.* Whenever an audit by a Customs regulatory auditor indicates that a broker to whom an exemption has been granted as provided for in paragraph (b) of this section is not keeping and maintaining records in conformity with the requirements of the paragraph, the exemption of such broker shall be withdrawn by notice in writing from the district director, and such broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(d) *Prescribed format.* Each licensed customhouse broker shall keep in the format set forth below and in the detailed manner indicated therein, a complete, correct, itemized record revealing all of his financial transactions as a broker. A separate sheet shall be used for the transactions with each of the broker's clients and all entries shall be made immediately after the transactions are accomplished.

Name of broker ______________________ Port of ______________________
Address ______________________ Name of importer or exporter (client) ______________________

Entry Number	Symbol (Footnote)	Date Of Entry 19__	Amounts Deposited with U.S.	Amounts Refunded Payee by U.S.	Amounts Disbursed To Client On Account of Refunds Made By U.S. Government	Broker's Fee	Bond Premium	Foreign Forwarding Charge	Inland Freight Or Express	Storage or Cartage	Dock and Messenger Service	Public Stores	Warehouse Withdrawal	Miscellaneous	Cash Received From Clients		Remarks Disposition Of Merchandise If Entry Not Completed
															Amount	Date 19__	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

(Note.—The following symbols shall be used to show the class of entry: "C", consumption; "W", warehouse; "WWC", warehouse withdrawal for consumption; "WWT", warehouse withdrawal for transportation; "R", re-warehouse; "R & W", re-warehouse and withdrawal for consumption; "IT", immediate transportation; "T & E", transportation and exportation; "D", exportation with benefit of drawback; "EWW", exportation under warehouse withdrawal; "E", exportation; "A", appraisement; "I", informal; "PP", packed packages.)

§ 111.23 Retention of books and papers.

(a) *Period and place of retention.* The books and papers as defined in § 111.1(e) and required by §§ 111.21 and 111.22 to be kept by a broker, other than powers of attorney, shall be retained within the Customs district to which they relate for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters or revocation thereof shall be retained for 5 years after the date of revocation. When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal. **[TDs 70-224, 79-159.]**

(b) *Microfilming of books and papers.* A broker, with the approval of the district director for the district in which he is licensed, may record on microfilm any books and papers, other than books of account or powers of attorney, required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these books and papers pertain has been liquidated, upon the following conditions: **[TD 72-299.]**

(1) *Approval of microfilming.* The broker shall submit to the district director for the district in which he is licensed a request for approval to microfilm records containing the following certification:

> This certifies that the records for which this approval is requested shall be microfilmed in accordance with the standards set forth in § 111.23(c) of the Customs Regulations (19 CFR 111.23(c)).

(2) *Retention of microfilm records.* The broker shall retain and keep available an original and one reproduction of each microfilm for the period specified by paragraph (a) of this section.

(3) *Use of microfilm records.* The reproduction copy of the original negative microfilm of books and papers may be used for reference purposes. However, the original negative microfilm shall not be used for reference purposes, and adequate measures shall be taken to keep the original negative clean and free from scratches.

(4) *Hard-copy reproductions.* Brokers microfilming their records shall use microfilm equipment having the capability of making direct hard-copy reproductions of the microfilmed records.

(5) *Expense of reproductions.* Brokers shall bear the expense of making hardcopy reproductions of any or all microfilmed records required by the Regional Director, Regulatory Audit, the special agent in charge, or other proper official of the United States Customs Service for the audit or inspection of books and records. **[TD 78-138.]**

(c) *Standards required for microfilming.* Brokers microfilming their records shall maintain the integrity of the original records by insuring that the microfilm copies are true reproductions of the original records and serve the purpose for which such records were created. The following shall be observed in any microfilming: **[TD 72-299.]**

(1) Copies shall contain all significant record detail shown on the original.

(2) Copies of the records, on either roll microfilm or unit microfilm systems, shall be so arranged, identified, and indexed that any individual document or component of the records can be located with reasonable facility.

(3) Any indexes, registers or other finding aids shall be microfilmed at the beginning of the records to which they relate.

(d) *Other methods of reproduction for record retention.* A broker may, with the approval of the district director for the district in which he is licensed, utilize other methods of reproduction, including microfiche, for the reproduction of books and papers, other than books of account or powers of attorney, permitted to be microfilmed under paragraph (b), provided the requirements of paragraphs (b) and (c) of this section are met. **[TD 78-138.]**

§ 111.24 Books and papers confidential.

The books and papers referred to in this part and pertaining to the business of the clients serviced by the broker shall be considered confidential, and the broker shall not disclose their contents or any information connected therewith to any persons other than such clients and the Regional Director, Regulatory Audit, the special agent in charge, or other duly accredited agent of the United States except on subpoena by a court of competent jurisdiction. **[TD 78-138.]**

§ 111.25 Books and papers shall be available.

During the period of retention, the broker shall maintain his books and papers in such manner that they may readily be examined, and they shall be made available for inspection, copying, reproduction or other official use by Customs regulatory auditors or special agents in accordance with the provisions of §§ 162.1a through 162.1i within the period of retention or within any longer period of time during which they remain in the possession of the broker. **[TDs 78-138, 79-159.]**

§ 111.26 Interference with examination of books and papers.

Except in accordance with the provisions of §§ 162.1a through 162.1i, a broker shall not refuse access to, conceal, remove, or destroy the whole or any part of any book or paper relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, nor shall he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in such book or paper. **[TD 79-159.]**

§ 111.27 Audit or inspection of books and papers.

The Regional Director, Regulatory Audit, shall make such audit or inspection of the books and papers required by this subpart to be kept and maintained by a broker as may be necessary to enable the district director and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this part. Furthermore, the Regional Director, Regulatory Audit, and/or the special agent in charge, may inspect such books and papers to obtain information regarding specific Customs transactions for the purpose of protecting importers or the revenue of the United States. The Regional Director, Regulatory Audit, and the special agent in charge conducting an audit or inspection under this section shall submit a report of the findings to the Commissioner and the district director. **[TD 78-138.]**

§ 111.28 Responsible supervision.

(a) *General rule.* Every licensed broker operating as a sole proprietor and every licensed member of a partnership and every licensed officer of an association or corporation which is licensed as a broker shall exercise responsible supervision and control over the transaction of the Customs business of such sole proprietorship, partnership, association, or corporation. **[TD 71-39.]**

(b) *List of employees.* Within 30 days after the date of receipt of a written demand by the district director, a licensed customhouse broker shall submit a list of the names, addresses, social security numbers, and dates and places of birth of persons currently employed. Having furnished such a list, each licensed customhouse broker shall, within 10 days after the employment of any new personnel, advise the district director of the names, addresses, social security numbers, and dates and places of birth of any such employees. If the employment of any such person is terminated, the customhouse broker shall promptly advise the district director. **[TD 71-39.]**

§ 111.29 Diligence in correspondence and paying monies.

Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of documents relating to any matter handled by him as a broker. Funds received by a broker from a client for payment of duty, tax, or other debt or obligation owing to the Government shall be paid to the Government within 30 days from date of receipt or date due, whichever is later. Each broker shall within 60 days account to clients for funds received for them from the Government, or received from a client in excess of the governmental or other charges properly payable in response to the client's business. He shall account to all other persons within 30 days of receipt for all funds advanced by a client for payment of any charges, debts, or obligations due such other persons.

§ 111.30 Change of business address, organization, or name; status report.

(a) *Business address.* When a broker changes his business address, he shall immediately give written notice of his new address to the Commissioner and the district director for the district in which the change of address occurs.

(b) *Organization.* A partnership, association, or corporation shall immediately notify the Commissioner and the district director of the districts where licensed of:

(1) The date on which a licensed member or officer who was one of the qualifying members or officers ceases to be a member or officer and the name of the broker who will succeed him as a qualifying member or officer; or

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation.

(c) *Name.* A broker who changes his name, or who proposes to operate under a trade or fictitious name in one or more States within the district in which he is licensed and is authorized by State law to do so, shall submit evidence of his authority to use such name. The name shall not be used until the approval of the Commissioner has been received. In the case of a trade or fictitious name, the broker shall affix his own name in conjunction with each signature of the trade or fictitious name when signing Customs documents.

(d) *Status report.* Each customhouse broker shall file a status report with Customs on February 1, 1979, and on February 1 of each third year thereafter. A report received during the month of February will be considered filed timely. The report shall be filed with the Commissioner of Customs, U.S. Customs Service, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, D.C. 20229. A copy also shall be filed with the District Director of Customs in each district where the broker is licensed to transact Customs business. No form or particular format is required. Each individual broker shall state whether he is actively engaged in transacting business as a customhouse broker. If so, he shall state the name under, and the address at which, his business is conducted (if he is a sole proprietor); or the name and address of his employer, unless his employer is a corporate, partnership or association broker for which he is a qualifying officer or member. The report of each corporation, partnership, or association shall state the name under which its business as a customhouse broker is being transacted, its business address, the names and addresses of the members of the partnership or officers of the corporation or association qualifying it for a license, and whether it is actively engaged in transacting business as a customhouse broker. **[TD 79-159.]**

§ 111.31 Conflict of interest.

(a) *Former officer or employee of U.S. Government.* A broker who was formerly an officer or employee in the Government service shall not represent a client before the Treasury Department or any representative thereof in any matter to which the broker gave personal consideration or gained knowledge of the facts while in the Government service, except as provided in 18 U.S.C. 207.

(b) *Assisting former officer of employee of U.S. Government.* A broker shall not knowingly assist, accept assistance from, or share fees with a person who has been employed by a client in a matter pending before the Treasury Department or any representative thereof to which matter such person gave personal consideration or gained personal knowledge of the facts or issues thereof while in the Government service.

(c) *Importations by broker or employee.* A broker who is an importer himself shall not act as broker for an importer who imports merchandise of the same general character as that imported by the broker unless the client has full knowledge of the facts. The same restriction shall apply if a broker's employee is an importer.

§ 111.32 False information.

A broker shall not file or procure or assist in the filing of any claim, or of any document, affidavit, or other papers, known by such broker to be false; nor shall he knowingly give, or solicit or procure the giving of, any false or misleading information or testimony in any matter pending before the Treasury Department or any representative thereof.

§ 111.33 Government records.

A broker shall not procure or attempt to procure, directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by proper authority.

§ 111.34 Undue influence upon Government employees.

A broker shall not influence or attempt to influence the conduct of any representative of the Treasury Department in any matter pending before the Treasury Department or any representative thereof by the use of a threat, false accusation, duress, or the offer of any special inducement or promise of advantage, or by bestowing any gift or favor or other thing of value.

§ 111.35 Acceptance of fees from attorneys.

With respect to merchandise imported after March 15, 1962, a broker shall not demand or accept from any attorney (whether directly or indirectly, including, for example, from a client as a part of any arrangement with an attorney) on account of any case litigated in any court of law or on account of any other legal service rendered by an attorney any fee or remuneration in excess of an amount measured by or commensurate with the time, effort and skill expended by the broker in performing his services.

§ 111.36 Relations with unlicensed persons.

(a) *Service to others not to benefit unlicensed person.* A broker shall not enter into any agreement with an unlicensed person to transact Customs business for others in such manner that the fees or other benefits resulting from the services rendered for others inure to the benefit of the unlicensed person except as provided in paragraph (b) of this section. When a broker is employed for transaction of Customs business by an unlicensed person who is not the actual importer, the broker must transmit to the actual importer a copy of his bill for services rendered, unless the merchandise was purchased for delivery on an all-free basis (duty and brokerage charges paid by the unlicensed person).

(b) *Employment by a freight forwarder.* A broker may compensate a freight forwarder for services rendered in obtaining brokerage business, providing:

(1) The importer is notified in advance by the forwarder or broker of the name of the broker selected by the forwarder for the handling of his Customs transactions;

(2) The broker transmits directly to the importer:

(i) A true copy of his brokerage charges if the fees and charges are to be collected by or through the forwarder, or

(ii) A statement of his brokerage charges and an itemized list of any charges to be collected for the account of the freight forwarder if the fees and charges are to be collected by or through the broker;

(3) No part of the agreement of compensation between the broker and the forwarder, nor any action taken pursuant thereto, shall forbid or prevent direct communication between the importer and the broker; and

(4) In making the agreement and in all actions taken pursuant thereto, the broker shall be subject to all other provisions of these regulations.

§ 111.37 Misuse of license.

A broker shall not permit his license or his name to be used by or for any unlicensed person, other than his own employees authorized to act for him, or by or for any broker whose license is under suspension in the solicitation, promotion or performance of any Customs business or transaction. **[TD 77-218.]**

§ 111.38 False representation to procure employment.

A broker shall not knowingly use false or misleading representations to procure employment in any Customs matter, nor shall he represent to a client or prospective client that he can obtain any favors from the Treasury Department or any representative thereof.

§ 111.39 Advice to client.

(a) *Withholding or false information.* A broker shall not withhold information relative to any Customs business from a client who is entitled to the information. He shall exercise due diligence to ascertain the correctness of any information which he imparts to a client, and he shall not knowingly impart to a client false information relative to any Customs business.

(b) *Error or omission by client.* A broker who knows that a client has not complied with the law or has made an error in, or omission from, any document, affidavit, or other paper which the law requires such client to execute, shall advise his client promptly of the fact of such noncompliance, error, or omission.

(c) *Illegal plans.* A broker shall not suggest to a client or a prospective client a plan known to be illegal for evading payment of any duty, tax, or other debt or obligation owing to the Government.

111.40 Protests.

A broker shall not act in behalf of any person, or attempt to represent any person, in respect of any protest, unless he shall previously have been authorized to do so in accordance with § 174.3 of this chapter. [TD 70-181.]

§ 111.41 Endorsement of checks.

A broker shall not endorse or accept without authority of his client any Government draft, check, or warrant drawn to the order of such client.

§ 111.42 Relations with person who is notoriously disreputable or whose license has been suspended, canceled "with prejudice," or revoked.

A broker shall not knowingly and directly or indirectly:

(a) Accept employment to effect a Customs transaction as associate, correspondent, officer, employee, agent, or subagent from any person who is notoriously disreputable or whose license as broker shall have been revoked for any cause, or whose license is under suspension, or who has had his license canceled "with prejudice;"

(b) Assist the furtherance of any Customs business or transactions of such person;

(c) Employ, or accept such assistance from, any such person, without the approval of the Commissioner (see § 111.79);

(d) Share fees with any such person, or

(e) Permit any such person directly or indirectly to participate, whether through ownership or otherwise, in the promotion, control, or direction of the business of the broker. Nothing herein shall be deemed to prohibit any broker from acting as a broker for any bona fide importer or exporter, notwithstanding such importer or exporter may have had his license as a customhouse broker revoked or suspended, or may be notoriously disreputable.

§ 111.43 Display of license.

Each broker shall display his license in the principal office within the district so that it may be seen by anyone transacting business in the office. Photocopies of the license shall likewise be posted in each branch office within the district.

§ 111.44 Limitation of liability.

A broker may not limit his liability to a client with respect to a claim by the client arising out of the wrongful or negligent action of the broker in connection with a matter handled by him as a broker. Further, no broker shall enter into a contract which purports to so limit his liability. [TD 72-193.]

Subpart D—Cancellation, Suspension, or Revocation of License

§ 111.51 Cancellation of license.

(a) *Without prejudice.* The Commissioner may cancel a broker's license "without prejudice" upon written application by the broker if the Commissioner determines that the application for cancellation was not made in order to avoid proceedings for the suspension or revocation of the license. If he determines that the application for cancellation was made in order to avoid such proceedings, the Commissioner may cancel the license "without prejudice" if authorized by the Secretary of the Treasury.

(b) *With prejudice.* The Commissioner may cancel a broker's license "with prejudice" when specifically requested to do so by the broker. The effect of a cancellation "with prejudice" is in all respects the same as if the license had been revoked for cause by the Secretary.

§ 111.52 Revocation by operations of law.

A license granted to a partnership, association, or corporation shall be deemed revoked by operation of law, in accordance with the provisions of section 641(a), Tariff Act of 1930, as amended (19 U.S.C. 1641(a)), if for any continuous period of more than 60 days there are not at least two members of such partnership or two officers of such association or corporation who are licensed to transact business as a customhouse broker. When a license is revoked by operation of law, the Commissioner will notify the partnership, association, or corporation of the revocation. A copy of such notice will be sent to the district director.

§ 111.53 Grounds for suspension or revocation.

Failure or refusal to comply with the duties, responsibilities, or requirements specified in Subpart C or elsewhere in this part relating to brokers may be deemed grounds for suspension or revocation of the license of a broker. Such duties, responsibilities, or requirements are not to be considered as exclusive. Conduct not within the purview of any specification of this part may be deemed to be conduct warranting the suspension or revocation of a license under the authority of section 641(b), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)).

§ 111.54 Appropriate officer of the Customs.

Unless otherwise indicated in this part, the district director shall be the appropriate officer of the Customs within the scope of section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b)). In the case of sickness or absence of the district director, the assistant district director designated by the district director shall be the appropriate officer of the Customs. If the office of district director is vacant or the district director is unable to designate an assistant district director as appropriate officer of the Customs, the Commissioner shall designate one of the assistant district directors to be the appropriate officer of the Customs. [TD 75-58.]

§ 111.55 Investigation of complaints.

Every complaint or charge against a broker which may be the basis for disciplinary action shall be forwarded for investigation to the special agent in charge of the area in which the broker is located. The special agent in charge shall submit a report on the investigation to the director of the appropriate district and send a copy of it to the Commissioner.

§ 111.56 Review of report on investigation.

The district director shall review the report of investigation to determine if there is sufficient basis to recommend that charges be preferred against the broker. He shall then submit his recommendation with supporting reasons to the Commissioner for final determination together with a proposed statement of charges when recommending that charges be preferred.

§ 111.57 Determination by Commissioner.

(a) *Determination not to prefer charges.* If the Commissioner determines that charges will not be preferred, he shall notify the district director of his decision.

(b) *Determination to prefer charges.* If the Commissioner determines that charges will be preferred, he may also determine that the complaint or charge, supported by the agent's report of investigation, is of so serious a nature that formal proceedings for suspension or revocation of the license shall be instituted immediately without following the preliminary proceedings prescribed in § 111.59. The Commissioner shall notify the district director of his determinations and instruct him to prepare a proposed statement of charges for review by the Commissioner if not previously submitted.

§ 111.58 Content of statement of charges.

The statement of charges shall give a plain and concise, but not necessarily detailed, description of the facts claimed to constitute grounds for suspension or revocation of the license. A statement of charges which fairly informs the accused of the charges against him so that he is able to prepare his defense shall be deemed sufficient. Different means by which a purpose might have been accomplished or different intents with which acts might have been done so as to constitute grounds for suspension or revocation of license may be alleged in the statement of charges in a single count in the alternative. If the Commissioner has determined that the preliminary proceedings prescribed in § 111.59 shall not be followed, the statement of charges shall recite the Commissioner's determination.

§ 111.59 Preliminary proceedings.

(a) *Opportunity to participate.* Unless the Commissioner, under § 111.57, has determined that the preliminary proceedings shall not be followed, the district director shall advise the broker of his opportunity to participate in preliminary proceedings with an opportunity to avoid formal proceedings against his license.

(b) *Notice of preliminary proceedings.* The district director shall serve upon the broker, as set forth in § 111.63, a notice in writing that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs him that 5 U.S.C. 554 and 558 will be applicable if formal proceedings are necessary;

(3) Invites him to show cause, if he so desires, why the formal proceedings should not be instituted;

(4) Informs him that he may make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(5) Invites any negotiation for settlement of the complaint or charge that the broker deems it desirable to enter into;

(6) Advises him of his right to be represented by counsel; and

(7) Specifies the place where and a reasonable time within which the broker may respond in writing and/or orally.

§ 111.60 Request for additional information.

If, in order to prepare his defense, the broker desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged misconduct, he may request such information in writing. He shall set forth in his request in what respect the proposed statement of charges leaves him in doubt and describe the particular language of the proposed statement of charges as to which additional information is needed. If in the opinion of the district director such information is reasonably necessary to enable the broker to prepare his defense, he shall furnish the broker with such information.

§ 111.61 Decision on preliminary proceedings.

The district director shall prepare a summary of any oral presentations made by the broker or his attorney and forward it to the Commissioner together with a copy of each paper filed by the broker. The district director shall also give to the Commissioner his recommendation on action to be taken as a result of the preliminary proceedings. If the Commissioner determines that the broker has satisfactorily responded to the proposed charges, and that further proceedings are not warranted he shall so inform the district director who shall notify the broker. If the Commissioner determines that the broker has not satisfactorily responded to the proposed charges, he shall so advise the district director and instruct him to prepare, sign, and serve a notice of charges and the statement of charges. If one or more of the charges in the proposed statement of charges was satisfactorily answered by the broker, the Commissioner shall instruct the district director to omit those charges from the statement of charges.

§ 111.62 Contents of notice of charges.

The notice of charges shall inform the broker that:

(a) Sections 554 and 558, title 5, United States Code, are applicable to the formal proceedings;

(b) He may be represented by counsel;

(c) He will have the right to cross-examine witnesses;

(d) He will be notified within 10 days after service of this notice of the time and place of a hearing on the charges; and

(e) Prior to the hearing on the charges, he may file, in duplicate with the district director, a verified answer to the charges.

§ 111.63 Service of notice and statement of charges.

(a) *Individual licensee.* The district director shall serve the notice of charges and the statement of charges against an individual licensee as follows:

(1) By delivery to the broker personally;

(2) By certified mail, with demand for a return card signed solely by the addressee;

(3) By any other means which the broker may have authorized in a written communication to the district director; or

(4) If attempts to serve the broker by the above methods are unsuccessful, the district director may serve the notice and statement by leaving them with the person in charge of the broker's office.

(b) *Partnership, association or corporation.* The district director shall serve the notices of charges and the statement of charges against a partnership, association, or corporation as follows:

(1) By delivery to any member of the partnership personally or to any officer of the association or corporation personally;

(2) By certified mail addressed to any such member or officer with demand for a return card signed by the addressee;

(3) By any other means which the broker may have authorized in a written communication to the district director; or

(4) If attempts to serve the broker by the above methods are unsuccessful, the district director may serve the notice and statement by leaving them with the person in charge of the broker's office.

(c) *Certified mail; evidence of service.* When the service is by certified mail, the receipt of the return card duly signed shall be satisfactory evidence of service.

§ 111.64 Service of notice of hearing and other papers.

(a) *Notice of hearing.* Within 10 days after service of the notice and statement of charges, the district director shall serve upon the broker or his attorney, by one of the methods enumerated in § 111.63 or by ordinary mail, a written notice of the time and place of the hearing. The hearing shall be scheduled to take place within 5 days after service of the notice of hearing.

(b) *Other papers.* Other papers relating to the hearing may be served by ordinary mail or by one of the methods set forth in § 111.63 or upon the broker's attorney.

§ 111.65 Extension of time for hearing.

If the broker or his attorney requests in writing a delay in the hearing on the ground that additional time is necessary to prepare a defense, the hearing officer designated pursuant to § 111.67(a) may reschedule the hearing, notifying the broker or his attorney in writing of the extension and the new time for which the hearing has been scheduled. **[TD 75-58.]**

§ 111.66 Failure to appear.

When an accused broker or his attorney fails to appear for a scheduled hearing, the hearing officer designated pursuant to § 111.67(a) shall proceed with the hearing as scheduled, and shall hear evidence submitted on behalf of the Government. The regulations of this part shall apply as though the broker were present, and the Secretary of the Treasury may issue an order of suspension or revocation if he finds it to be in order. **[TD 75-58.]**

§ 111.67 Hearing.

(a) *Government representatives.* The Commissioner shall designate as hearing officer an appropriate officer of the Customs other than a Customs officer of the district for which the license was issued. The hearing officer shall provide a competent reporter to make a record of the hearing. The Commissioner shall designate one or more persons to represent the Government at the hearing. The hearing officer may designate one or more persons to assist in the proceedings. **[TD 75-58.]**

(b) *Rights of the accused.* The broker or his attorney shall have the right to examine all exhibits offered at the hearing and shall have the right to cross-examine witnesses and to present witnesses who shall be subject to cross-examination by the Government representatives.

(c) *Interrogatories.* Upon the written request of either party, the hearing officer may permit deposition upon oral or written interrogatories to be taken before any officer duly authorized to administer oaths for general purposes or in Customs matters. The other party to the hearing shall be given a reasonable time in which to prepare cross-interrogatories and, if the deposition is oral, shall be permitted to cross-examine the witness. The deposition shall become part of the hearing record. **[TD 75-58.]**

(d) *Transcript of record.* When the record of the hearing has been transcribed by the reporter, the hearing officer shall deliver a copy to the broker and the Government's representative without charge. **[TD 75-58.]**

§ 111.68 Proposed findings and conclusions.

The hearing officer shall allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons therefor as contemplated by 5 U.S.C. 557(c). **[TD 75-58.]**

§ 111.69 Recommended decision by hearing officer.

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer shall make his recommended decision in the case and certify the entire record to the Secretary of the Treasury. The hearing officer's recommended decision shall conform with the requirements of 5 U.S.C. 557. **[TD 75-58.]**

§ 111.70 Additional submittals.

Upon receipt of the record, the Secretary of the Treasury will afford the parties a reasonable opportunity to make such additional submittals as required by 5 U.S.C. 557(c) and by the circumstances of the case.

§ 111.71 Immaterial mistakes.

The Secretary of the Treasury will disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place, or the ownership of any property, any other immaterial mistake in the statement of charges or a failure to prove immaterial allegations in the description of the accused's conduct.

§ 111.72 Dismissal subject to new proceedings.

If the Secretary of the Treasury finds that the evidence produced at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, he may instruct the district director to serve appropriate charges as a basis for new proceedings to be conducted in accordance with the procedure set forth in this subpart.

§ 111.73 Partial proof of charges.

If the Secretary of the Treasury finds that one or more of the charges in the statement of charges is not sufficiently proved, he may base his decision on any remaining charges if the facts alleged in the charges are established by the evidence.

§ 111.74 Decision and notice of suspension or revocation.

If the Secretary of the Treasury in the exercise of his discretion issues an order of suspension or revocation of the license of a broker, the Commissioner of Customs will notify the broker and publish a notice of suspension or revocation in the Federal Register and in the Customs Bulletin.

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license may be taken in accordance with the provisions of section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b)). The commencement of such proceedings shall, unless specifically ordered by the court, operate as a stay of the Secretary's order of suspension or revocation.

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Any person whose license has been suspended or revoked may make written application in duplicate to the hearing officer to have the order of suspension or revocation set aside or modified upon the ground of newly discovered evidence or that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application must set forth specifically the precise character of the evidence to be relied upon and shall state the reasons why the applicant was unable to produce it when the original charges were heard. **[TD 75-58.]**

(b) *Procedure.* The hearing officer shall forward the application with his recommendation to the Secretary of the Treasury. The Secretary may grant or deny the application for reopening of the case and may order the taking of additional testimony before the hearing officer. The hearing officer shall notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the hearing officer shall set a time and place for such hearing and give due notice thereof to the applicant. The procedure governing the additional hearing and recommended decision of the hearing officer shall be the same as that governing the original proceeding. **[TD 75-58.]**

§ 111.77 Notice of reinstatement.

If the Secretary of the Treasury issues an order vacating or modifying the prior order of suspension or revocation, the Commissioner will notify the broker and publish a notice of the new order in the Federal Register and the Customs Bulletin.

§ 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but such failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings the regional Commissioner or the district director, with the approval of the regional Commissioner, may serve the broker with a written reprimand. Such reprimand and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted. **[TD 77-242.]**

§ 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation "with prejudice" of a license, the ex-broker may petition the Commissioner for authorization to accept employment with or to assist a licensed broker. Such petition shall not be approved unless the Commissioner is satisfied that the petitioner has refrained from all activities in any way violative of the provisions of § 111.42 and that petitioner's conduct has been exemplary during the period of disability. The Commissioner shall also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which such misconduct leads to pecuniary loss to the Government or to any person, the Commissioner shall also take into account whether the petitioner has made reimbursement for the losses incurred.

§ 111.80 Saving provision.

Any proceeding for revocation or suspension of a license instituted prior to December 31, 1968, shall be governed by the provisions of 19 CFR Part 31 in force at the time the proceeding was instituted.

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

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Authority: R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 66, 1551, 1565, 1624.

Source: T.D. 73-140, 38 FR 13551, May 23, 1973, unless otherwise noted.

§ 112.0 Scope.

This part sets forth regulations providing for the bonding of carriers which will receive merchandise for transportation in bond, and the licensing of cartmen and lightermen for the cartage of merchandise entered for warehouse, designated for examination, or taken into custody as unclaimed, and the procedures in applying for such bonds or licenses. This part also sets forth the regulations concerning the obtaining of identification cards by cartmen and lightermen, and their employees and the procedures for revoking or suspending licenses and identification cards. Provisions setting forth the duties and responsibilities of cartmen and lightermen are set forth in Part 125 of this chapter. **[TD 73-140.]**

Subpart A—General Provisions

§ 112.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Carrier.* A "carrier" is one who undertakes to transport goods, merchandise or people.

(b) *Cartman.* A "cartman" is one who undertakes to transport goods or merchandise within the limits of the port.

Common carrier. A "common carrier" is a carrier owning or operating a railroad, steamship, or other transportation line or route which undertakes to transport goods or merchandise for all of the general public who choose to employ him.

(d) *Contract carrier.* A "contract carrier" is a carrier which undertakes to transport specific goods or merchandise for a specific person or group of persons, and is authorized to operate as such by any agency of the United States.

(e) *Freight forwarder.* A "freight forwarder" is one who engages in the business of dispatching shipments on behalf of other persons, for a consideration, in foreign or domestic commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments, and is authorized to operate as such by any agency of the United States.

(f) *Lighterman.* A "lighterman" is one who transports goods or merchandise on a barge, scow, or other small vessel to or from a vessel within the port, or from place to place within a port.

(g) *Private carrier.* A "private carrier" is a carrier of his own goods or merchandise.

§ 112.2 Bond or license required.

(a) *Carriers.* A bond provided for in this part is required to transact business as a carrier receiving merchandise for transportation in bond.

(b) *Cartmen and lightermen.* A bond and license provided for in this part are required to transact business as a cartman or lighterman for the cartage or lighterage of merchandise entered for warehouse, designated for examination, taken to container stations, or taken into custody as unclaimed.

Subpart B—Authorization of Carriers To Carry Bonded Merchandise

§ 112.11 Carriers which may be authorized.

(a) *From port to port in the United States.* The district director may authorize the following types of carriers to receive merchandise for transportation in bond from one port to another in the United States upon compliance with the provisions of this subpart:

(1) Common carriers.

(2) Contract carriers.

(3) Freight forwarders.

(4) Private carriers, if:

(i) The merchandise (including containerized merchandise) to be transported is the property of the private carrier; and (ii) the private carrier files Customs Form 3588, "Private Carriers Bond". **[TD 75-221, 78-243, 81-243.]**

(b) *Between ports in Canada or Mexico through the United States.* Canadian and Mexican motor vehicle common carriers may be authorized to transport merchandise under bond between ports in Canada or Mexico through the United States (see Part 123 of this chapter), upon compliance with the provisions of this subpart.

§ 112.12 Application for authorization.

(a) *General requirements.* All carriers and freight forwarders desiring to be authorized to receive merchandise for transportation in bond shall file with the district director concerned a bond on Customs Form 3587 (except private carriers which file on Customs Form 3588 and airline companies which have the option to file a consolidated aircraft bond, Customs Form 7605 or the Customs Form 3587), in a sum specified by the district director accompanied by a fee of $50. A check or money order shall be made payable to the United States Customs Service.

(b) *Special requirements.* In addition to the requirements in paragraph (a) of this section, the specified carriers shall also file with the district director the following documents:

(1) *Common carriers other than railroad, steamship, or airline companies.* Common carriers other than railroad, steamship, or airline companies generally known to be engaged in common carriage, shall file a certified extract of its articles of incorporation or charter showing that it is authorized to engage in common carriage, and a statement that it is operating or intends to operate as a common carrier.

(2) *Contract carriers and freight forwarders.* Contract carriers and freight forwarders shall file a certificate from the appropriate agency of the United States showing that the applicant is authorized to operate as a contract carrier or freight forwarder by that agency and a statement showing that the applicant is operating or intends to operate as such.

(3) *Private Carriers.* The private carrier shall file the bond with the district director in the Customs district where the private carrier intends to operate. If the private carrier intends to operate in two or more Customs districts, he shall file the bond with the district director for one of the districts, send a copy of the bond to the district director for each additional district, and include with the bond and copies of the bond a list of all Customs districts in which he intends to operate. If the private carrier is the proprietor of one or more Customs bonded warehouses or bonded container stations to which imported merchandise will be transported, he shall accompany the bond and copies of the bond by a statement showing the location of each warehouse and container station. **[81-243.]**

(4) *Motor carriers.* All motor carriers shall file:

(i) A detailed description of the terminal facilities employed by the principal at the points of origin and destination on the routes covered; and

(ii) A statement showing that facilities are available for the segregation and safeguarding of the packages designated by the district director for examination from a particular shipment.

§ 112.13 Approval of applications.

The district director shall approve an application for authorization as carriers of bonded merchandise and the bond filed, authorizing the applicant to act as a carrier of bonded merchandise provided he is satisfied that:

(a) The amount of the bond is sufficient.

(b) All documents required by this subpart have been furnished and are in proper form; and

(c) The fee prescribed has been paid.

§ 112.14 Discontinuance of carrier bonds.

Carrier bonds may be discontinued at any time by the Commissioner of Customs or by the district director of the district where the bond is filed. Authorized carriers desiring to terminate such bonds shall make application therefor to such district director.

§ 112.15 Publication of approvals and discontinuances of carrier bonds.

Approvals and discontinuances of carrier's bonds will be published from time to time in the weekly Customs Bulletin.

Subpart C—Licensing of Cartmen and Lightermen

§ 112.21 License required.

A customhouse cartage or lighterage license issued by the district director in accordance with this part or specific authorization of the Commissioner of Customs shall be required to perform Customs cartage or lighterage, except as provided for in § § 18.3 and 125.12 of this chapter.

§ 112.22 Application for license.

(a) *General requirements.* An applicant for a customhouse cartage or lighterage license shall file with the district director for the district in which he proposes to conduct business the following: **[TD 78-274]**

(1) A bond on Customs Form 3855 in a sum specified by the district director unless a bond on Customs Form 3587 or 3588, as provided for in section 112.25, has been filed previously. **[TD 78-274]**

(2) Payment of a fee of $100. A check or money order shall be made payable to the United States Customs Service.

(3) If required by the district director, a list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from Customs custody, or a list of all such persons and their addresses.

(b) *Special requirements*—(1) *Cartman licensed by city or State.* Any cartman licensed by city or State authorities shall present to the district director his city or State license, after which such documents shall be returned.

(2) *Lighterman.* A lighterman shall present his vessel's marine documents, if any have been issued, to the district director for examination, after which such documents shall be returned.

(c) *Reapplication by certain terminated licensees.* Where the applicant for a customhouse cartage or lighterage license has previously been issued such a license and the license has been terminated pursuant to § 113.56 of this chapter, the district director may waive the filing of the items described in paragraphs (a)(2) and (a)(3) of this section, as well as the investigation described in

§ 112.23, provided the application is made within 30 days of the effective date of the termination of the previous license. Any requirements waived by the district director under this paragraph will be deemed to have been complied with for purposes of § 112.24(b). **[TD 76-324.]**

§ 112.23 Investigation of applicant.

The district director may refer the application for a cartman's or lighterman's license to the Customs special agent in charge for the district in which the application is filed for investigation and report concerning the character, qualification, and experience of the applicant as well as the nature and fitness of the equipment to be used.

§ 112.24 Issuance of license.

The district director shall issue a customhouse cartage and lighterage license on Customs Form 3857 provided he is satisfied that:

(a) The character, qualifications, and experience of the applicant and fitness of his equipment are satisfactory.

(b) The applicant has complied with all the requirements of § 112.22.

§ 112.25 Bonded carriers.

A carrier or freight forwarder who has filed a carrier's bond, Customs Form 3587, or a carrier who has filed a private carrier's bond, Customs Form 3588, may be appointed or licensed as a Customs cartman or lighterman for a port for which such bond provides coverage, upon compliance with § 112.22. If a carrier's bond has been filed, the carrier or freight forwarder need not file a bond on Customs Form 3855 to satisfy the requirements of section 112.22(a)(1). Investigation pursuant to section 112.23 may apply. **[TD 78-274]**

§ 112.26 Duration of license.

A license issued in accordance with this subpart shall remain in force and effect until the license is suspended or revoked pursuant to § 112.30 or until the required bond is terminated pursuant to § 113.56 of this chapter. **[TD 76-324.]**

§ 112.27 Marking of vehicles and vessels.

(a) *Marking required.* Every vehicle licensed by Customs for cartage and every barge, scow, or other lighter licensed by Customs for lighterage shall be marked with the legend "Customhouse License No. ——————", and the name of the person or firm to whom the license has been issued. The abbreviated legend "C.H.L. No. ——————" may be used.

(b) *Size of marking.* The marking required by this section shall appear in letters and figures not less than 3 inches high.

(c) *Place of marking*—(1) *Carts, trucks, drays, and other vehicles.* Every cart, truck, dray, or other vehicle used for Customs cartage by a licensed cartman shall be marked with the required legend and name on each side by painting directly onto the vehicle, or by the permanent attachment of signs bearing the required marking. However, if such marking is found by the district director to be impractical, he may designate some other conspicuous place upon the vehicle where the marking shall appear.

(2) *Barges, scows, lighters, and other vessels.* Every barge, scow, lighter, or other vessel used for Customs lighterage by a licensed lighterman shall be conspicuously marked with the required legend and name.

(d) *Removal of marking upon termination of license.* The markings required by this section shall be removed upon termination of the license in accordance with the provisions of the bond, Customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided in such bond.

§ 112.28 Production of license.

Inspectors or other Customs officers may require any person claiming to be a licensed customhouse cartman or lighterman to produce his license for inspection.

§ 112.29 Records.

(a) *Records of cartage and lighterage.* The district director may require that licensed Customs cartmen and lightermen shall make, keep, and promptly submit for Customs inspection and examination upon request therefor such current written records relating to cartage and lighterage as may be needed for purposes of local Customs administration. Cartmen and lightermen shall maintain these records for 3 years from the expiration date of the related contract for cartage or lighterage. **[TD 79-159].**

(b) *Current list of officers, members, or employees.* The district director may require a licensee to furnish, at such times and intervals as the district director deems necessary, a current list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from Customs custody, or a list of all such persons and their addresses.

§ 112.30 Suspension or revocation of license.

(a) *Grounds for suspension or revocation of licenses.* The district director may revoke or suspend the license of a cartman or lighterman if:

(1) His license is not promptly produced upon demand;

(2) His vehicle or vessel is not properly marked, as required by § 112.27;

(3) The cartman or lighterman refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the cartage or lighterage of merchandise, including the making, keeping, and submitting of current written records relating to cartage and lighterage;

(4) The license was obtained through fraud or the misstatement of a material fact;

(5) The holder of such a license or an officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime;

(6) The holder of such license permits it to be used by any other person;

(7) The holder of such license fails to surrender promptly, or satisfactorily explain the failure to surrender, to the district director, identification cards of persons no longer employed by him where identification cards are required pursuant to § 112.41;

(8) The holder of such license fails to furnish a current list of names and addresses of officers and members or employees when required by the district director pursuant to § 112.29;

(9) The holder is guilty of any negligence, dishonest or deceptive practices or carelessness in the conduct of his business; or

(10) The district director determines that the bond is not sufficient in amount or lacks sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(b) *Notice of revocation or suspension.* The district director shall suspend or revoke a license by serving notice of the proposed action in writing upon the holder of the license. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the license and shall be final and conclusive upon the licensee unless he shall file with the district director a written notice of appeal in accordance with paragraph (c) of this section.

(c) *Notice of appeal.* The licensee may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate, and shall set forth the response of the licensee to the statement of the district director. The licensee in his notice of appeal may request a hearing.

(d) *Hearing on appeal*—(1) *Notification of and time of hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The licensee shall be notified of the time and place of the hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the license may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy thereof shall be delivered to the licensee. At the conclusion of such proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action.

(3) *Additional arguments.* Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the licensee may submit to the Commissioner of Customs in writing additional views and arguments on the basis of such record.

(4) *Failure to appear.* If neither the licensee nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs.

(e) *Decision on the appeal.* The Commissioner shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the licensee.

Subpart D—Identification Cards

§ 112.41 Identification cards required.

A district director may require each licensed cartman or lighterman and each employee thereof who receives, transports, or otherwise handles imported merchandise which has not been released from Customs custody to carry and display upon request of a Customs officer an identification card issued by the Bureau of Customs. The card shall be in the possession of the person in whose name it is issued at all times when he is engaged in transactions with respect to imported merchandise. An identification card shall not be issued to any person whose employment in connection with the transportation of bonded merchandise will, in the judgment of the district director, endanger the revenue.

§ 112.42 Application for identification card.

An application for an identification card required pursuant to § 112.41, shall be filed personally by the applicant with the district director on Customs Form 3078 together with two 1 1/4″ × 1 1/4″ color photographs of himself. The fingerprints of the applicant shall also be required on Standard Form 87 at the time of the filing of the application. The application may be referred to the Customs special agent in charge for investigation and report concerning the character of the applicant.

§ 112.43 Form of identification card.

The identification card shall be issued on Customs Form 3873 and shall not be valid unless signed by the employee and a Customs officer and the U.S. Customs seal is impressed thereon. The holder shall encase the card in protective transparent plastic so that both sides are clearly visible.

§ 112.44 Changes in information on identification cards.

Where there has been a change in the name, address, or employer of the holder, the card shall be promptly submitted by the cardholder to the district director, supported by application in proper form indicating the change so that it may be officially changed on the Customs records. New cards shall be issued when necessary.

§ 112.45 Surrender of identification cards.

The identification card shall be surrendered by the holder or licensee to the district director when:

(a) The employee holder leaves the employment of the licensed cartman or lighterman;

(b) The cartman or lighterman bond or license is terminated; or

(c) The card is revoked or suspended pursuant to § 112.48.

§ 112.46 Report of loss or theft.

The loss or theft of an identification card shall be promptly reported by the cardholder to the district director.

§ 112.47 Wrongful presentation.

If an identification card is presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated.

§ 112.48 Revocation or suspension of identification cards.

(a) *Grounds for revocation or suspension of identification cards.* An identification card issued pursuant to this part may be revoked or suspended by the district director for any of the following grounds:

(1) Such card was obtained through fraud or the misstatement of a material fact;

(2) The holder of such card is convicted of felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(3) The holder permits the card to be used by any other person, or refuses to produce it upon the proper demand of a Customs officer; or

(4) The holder fails to abide by the rules and regulations prescribed in § 112.45 and Part 125 of this chapter.

(b) *Notice of revocation or suspension.* The district director shall suspend or revoke an identification card by serving notice of the proposed action in writing upon the holder of the card. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the card and shall be final and conclusive upon the holder unless he shall file with the district director a written notice of appeal in accordance with paragraph (c) of this section.

(c) *Notice of appeal.* The holder may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed, in duplicate, and shall set forth the response of the holder to the statement of the district director. The holder in his notice of appeal may request a hearing.

(d) *Hearing on appeal*—(1) *Notification of and time of hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The holder shall be notified of the time and place of hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the card may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy thereof shall be delivered to the cardholder. At the conclusion of such proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action.

(3) *Additional arguments.* Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the holder of the card may submit to the Commissioner of Customs in writing additional views and arguments on the basis of such record.

(4) *Failure to appear.* If neither the cardholder nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs.

(e) *Decision on the appeal.* The Commissioner shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the cardholder.

§ 112.49 Temporary identification cards.

(a) *Issuance.* When an identification card is required by the district director under § 112.41, and the district director determines that the application for the identification card cannot be administratively processed in a reasonable period of time, any licensed cartman or lighterman may upon written request have a temporary identification card issued by the district director to his employee if he can show to the satisfaction of the district director that a hardship to his business would result pending issuance of an identification card.

(b) *Validity and renewal.* The temporary identification card shall be valid for a period of 60 days. The district director may renew the temporary identification card for additional 30-day periods if he feels that the circumstances under which the temporary identification card was originally issued continue to exist. The temporary identification card shall be returned by the holder or licensee to the district director when the identification card is issued or the privileges granted thereby are withdrawn.

(c) *Withdrawal of temporary card.* The temporary identification card may be withdrawn at any time if in the judgment of the district director continuation of the privileges granted thereby would endanger the revenue or if the holder of the temporary identification card refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation.

(d) *Bond.* The licensed cartman or lighterman shall as a condition precedent to the issuance of a temporary identification card to his employee be required to post a bond in a penal sum, the amount to be determined by the district director, to guarantee return of the temporary identification card by the holder upon its withdrawal or upon issuance of a permanent identification card and to cover any loss or damage caused to the United States by the holder of the temporary identification card. The bond shall be in the following format:

District____________________________________

No.____

U.S. Customs Service

Bond of Customs Cartman for Issuance of Temporary Identification Card

Know All Men by These Presents That *—————————————————————— of ——————————, as principal, and *————————, of ———————— and ————————, of ——————— as sureties, are held and firmly bound unto the UNITED STATES OF AMERICA in the sum of —————————— dollars ($——————), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ———————— day of —————, 19——.

Whereas, the said principal has requested the issuance of a temporary identification card for ——————————————; (Name of employee); and

Whereas, the said principal has satisfied the district director that a hardship to his business would result from the nonissuance of a temporary identification card for the said employee; and

Whereas, the said temporary identification card may be withdrawn at any time by the district director if he believes the continuation of the privileges granted thereby would endanger the revenue or the holder of the temporary identification card refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation; and

Whereas, the said principal has executed this obligation as a condition precedent to the issuance of said temporary identification card;

Now, Therefore, the Condition of This Obligation is Such That—

(1) If the above-bounden principal for whose benefit the temporary identification card has been issued, shall return the said card upon notice of demand made by the district director or upon the issuance of a permanent card to the said employee; and

(2) If the said principal shall exonerate and hold harmless the United States and its officers from or on account of any risk, loss, damage, or expense of any kind or description caused by the holder of the temporary identification card; and

(3) If the said principal fails to comply with any of the foregoing conditions, shall pay the amount of this obligation as liquidated damages;

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

____
(Name) (Address)

____
(Name) (Address)

______________________________(Seal)
(Principal)

____
(Name) (Address)

____
(Name) (Address)

______________________________(Seal)
(Surety)

____
(Name) (Address)

____
(Name) (Address)

______________________________(Seal)
(Surety)

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

PART 113—CUSTOMS BONDS

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113.61 Consolidated Aircraft Bond.
113.62 General Term Bond for Entry of Merchandise.

Authority: R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; (19 U.S.C. 66, 1623, 1624). Subpart E also issued under sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 74-227, 39 FR 32015, Sept. 4, 1974, unless otherwise noted.

§ 113.0 Scope.

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of Customs in requiring bonds, the classes of bonds and their approval and execution, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond. **[TD 74-227.]**

Subpart A—General Provisions

§ 113.1 Authority to require execution of bond or security.

Where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241), may by regulation or specific instruction require, or authorize the district director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

§ 113.2 Powers of Commissioner of Customs relating to bonds.

Whenever a bond is required or authorized by law, regulations, or instructions, the Commissioner of Customs may:

(a) Prescribe the conditions and form of such bond, and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided for by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period as he may fix when in his opinion special circumstances existing in a particular instance require such longer period.

(d) Authorize the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions. Such a consolidated bond shall have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of Customs may fix the penalty of a consolidated bond without regard to any other provision of law, regulation, or instruction.

§ 113.3 Liability of surety on a terminated bond.

The surety, as well as the principal, remains liable on a terminated bond for obligations incurred prior to termination.

Subpart B—Classes and Approval of Bonds

§ 113.11 Name and classes of bonds.

(a) *Name.* All bonds required to be given under the Customs statutes or regulations shall be known as Customs bonds.

(b) *Classes.* Customs bonds shall consist of two classes:

(1) Those approved by the Commissioner of Customs (see § 113.13).

(2) Those approved by the district director (see § 113.14).

§ 113.12 Carnets.

A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in Part 114 of this chapter, are ordinarily acceptable without posting further security under the Customs statutes or regulations requiring bonds.

§ 113.13 Bonds approved by the Commissioner of Customs.

(a) *Submitted to district director for forwarding to Commissioner of Customs.* The following bonds, after execution by the principals and sureties, shall be forwarded by the district director to the Commissioner of Customs for approval:

(1) *Proprietor's Manufacturing Warehouse Bond, Class 6, Customs Form 3583.* Proprietor's Manufacturing Warehouse Bond, Class 6, Customs Form 3583, in an amount to be recommended by the district director, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas, unless the Commissioner of Customs directs that additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. This Customs bond shall be prepared in duplicate. The district director shall forward to the Commissioner, along with this bond, his recommendation, together with all reports, documents, and drawings filed in connection with the bond.

(2) *Blanket smelting and refining bond.* Blanket smelting and refining bond in the form prescribed by T.D. 72-244, in an amount to be recommended by the district director and fixed by the Commissioner. The number of copies required for this bond are set forth in § 113.27.

(b) *Submitted directly to Commissioner of Customs.* Public Gauger bond, the form for which may be obtained from the district director, shall be submitted directly to the Commissioner of Customs in the amount of $10,000, in accordance with § 151.43(b) of this chapter.

§ 113.14 Bonds approved by the district director.

The following bonds are subject, after execution, to approval by the district director:

(a) *Proprietor's Warehouse Bond, Customs Form 3581.* Proprietor's Warehouse Bond, Customs Form 3581, in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas, unless the district director believes additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

(b) *Bonds for the carriage of merchandise*—(1) *Carrier's Bond, Customs Form 3587.* Carrier's Bond, Customs Form 3587, for common carriers, contract carriers, and freight forwarders, in an amount to be determined by the district director, but in an amount not less than $25,000 in the case of motor and air carriers and in an amount not less than $50,000 in the case of other carriers.

(2) *Private Carrier's Bond, Customs Form 3588.* Private Carrier's Bond, Customs Form 3588, in an amount to be determined by the district director.

(c) *Bond of Customs Cartman or Lighterman, Customs Form 3855.* Bond of Customs Cartman or Lighterman, Customs Form 3855, in such amount as the district director deems necessary, but not less than $5,000, and not more than $50,000, unless the district director deems the latter amount insufficient. If the latter amount is considered by the district director insufficient, he shall report this fact to the Commissioner of Customs for the Commissioner's determination as to the amount of the bond.

(d) *Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615.* Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615, in the amount of $250.

(e) *Bond to Produce Manifest and Shipper's Export Declarations for Goods Exported to Canada*—(1) *Single entry bond, Customs Form 7303.* Single entry Bond to Produce Manifest and Shipper's Export Declarations for Goods Exported to Canada, Customs Form 7303, in the amount of $1,000.

(2) *Term bond.* Term bond to produce manifest and shipper's export declarations for goods exported to Canada, in the form prescribed in T.D. 46594, as amended by T.D. 52626 and T.D. 55876, in such amount as the district director may deem necessary.

(f) *Special carpet wool and camel's hair bond*—(1) *Single entry bond, Customs Form 7547.* Special single entry carpet wool and camel's hair bond, Customs Form 7547, in an amount equal to the value of the wool or hair involved plus double the estimated duty, as determined at the time of entry.

(2) *Term bond, Customs Form 7549.* Special term carpet wool and camel's hair bond, Customs Form 7549, in the amount of $10,000, or such larger amount as the district director may deem necessary.

(g) *Immediate Delivery and Consumption Entry Bond*—(1) *Single entry bond, Customs Form 7551.* Immediate Delivery and Consumption Entry Bond (Single Entry), Customs Form 7551, in the amount equal to the value of the articles, as set forth in the entry, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any other taxes imposed upon or by reason of importation, as determined at the time of entry except that:

(i) *Merchandise entered at reduced rate of duty.* When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed in an amount equal to the value of the articles, as set forth in the entry, plus the maximum rate of duty prescribed by the law.

(ii) *Merchandise remaining in Customs custody.* When the merchandise involved will remain in Customs custody until (*a*) the examination of the merchandise has been completed, (*b*) it is found to be truly and correctly invoiced, and (*c*) it is determined that its release is not precluded by law or regulation and it is entitled to admission into the commerce of the United States, the bond shall be in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(iii) *Merchandise unconditionally free of duty.* When the merchandise appears to the satisfaction of the district director to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the amount of the bond may be in such lesser amount as, in the opinion of the district director, will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(iv) *Immediate delivery.* When the bond relates to an application for immediate delivery, the amount of the bond shall be fixed in the amount equal to the value of the articles, based on the information furnished in the application, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any taxes imposed upon or by reason of importation, as determined at the time of the application.

(2) *Term bond, Customs Form 7553.* Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, in the amount of $10,000, or such larger amount as the district director may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. The rules prescribed in paragraph (g)(1) of this section for determining the amount of the single entry immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

(h) *Warehouse Entry Bond, Customs Form 7555.* Warehouse Entry Bond, Customs Form 7555, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(i) *Bond for Exportation or Transportation or for Transportation and Exportation*—(1) *Single entry bond, Customs Form 7557.* Single entry Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7557, in an amount equal to the aggregate sum of double the ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties/plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(2) *Term bond, Customs Form 7559.* Term Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7559, in the amount of $10,000, or such larger amount as the district director may deem necessary to afford ample security to the revenue.

(j) *Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty, Customs Form 7561.* Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty, Customs Form 7561, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(k) *Bond for Temporary Importations*—(1) *Single entry, Customs Form 7563.* Bond for Temporary Importations, Customs Form 7563, in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the district director shall state in writing to the entrant, as is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry, except that in the case of samples solely for use in taking orders, motion-picture advertising films, professional equipment, tools of trade, and repair components for professional equipment and tools of trade, the bond shall be in an amount equal to 110 percent of the estimated duties.

(2) *Term bond, Customs Form 7563-A.* Term Bond for Temporary Importations, Customs Form 7563-A, in such amount of $10,000 or such larger amount as may be fixed by the district director at the port where the bond is filed.

(l) *Bond for articles for exhibition, Customs Form 7565.* Bond for articles for exhibition, Customs Form 7565, in an amount equal to the estimated duties, as determined at the time of entry.

(m) *Vessel, Vehicle, or Aircraft Bond*—(1) *Single entry bond, Customs Form 7567.* Vessel, Vehicle, or Aircraft Bond (Single Entry), Customs Form 7567, in such amount as the district director may deem necessary, but in no case less than $1,000.

(2) *Term bond, Customs Form 7569.* Vessel, Vehicle, or Aircraft Bond (Term), Customs Form 7569, in the amount of $10,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(n) *Single entry bond on entry for or withdrawal from manufacturing warehouse, Customs Form 7571.* Bond on entry for or withdrawal from manufacturing warehouse (single entry), Customs Form 7571, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise, as determined at the time of entry (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(o) *Single entry bond to produce bill of lading, Customs Form 7581.* Bond to Produce Bill of Lading (Single Entry), Customs Form 7581, in an amount equal to one and one-half times the invoice value.

(p) *Bond for control of instruments of international traffic, Customs Form 7587.* Bond for the Control of Certain Instruments of International Traffic, Customs Form 7587, required by § 10.41a of this chapter in the amount of $10,000 or such larger amount as the district director may deem necessary to afford ample security to the revenue.

(q) [Reserved]

(r) *Landing bond for alcoholic beverages.* Landing bond, in the form prescribed in T.D. 47886, to land spirits, wines, or other alcoholic liquors in foreign ports, in an amount equal to double the estimated duty. **[TD 76-267.]**

(s) *General term bond for the entry of merchandise, Customs Form 7595.* General Term Bond for Entry of Merchandise, Customs Form 7595, in the amount of $100,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(t) *Bond to secure the payment of overtime services*—(1) *Single entry bond, Customs Form 7597.* Single entry bond, Customs Form 7597, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(2) *Term bond, Customs Form 7599.* Term bond, Customs Form 7599, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(u) *Superseding bond, Customs Form 7601.* Superseding bond of the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to pay increased and additional duties imposed upon or by reason of importation, to redeliver merchandise for marking and other purposes, and to perform all required acts with respect to merchandise not entitled to admission into the commerce of the United States, Customs Form 7601, in an amount equal to the amount of the single-entry bond or the bond charge which it supersedes.

(v) *Bond for conditionally-free withdrawal for supplies of fishing vessels, Customs Form 7603.* Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol), Wines, or Beer for Supplies of Fishing Vessels, Customs Form 7603, in an amount equal to the duties and taxes that would have been assessed had the supplies been regularly entered, or withdrawn, for consumption. When the form is used as a term bond, the bond shall be fixed in such larger amount as the district director may deem necessary.

(w) *Consolidated Aircraft Bond, Customs Form 7605.* Consolidated Aircraft Bond, Customs Form 7605, filed with any district director at the option of the carrier, in the amount of $100,000, or such larger amount as may be fixed by the district director.

(x) *Bond for Accelerated Payment of Drawback*—(1) *Single entry bond, Customs Form 7609.* Bond for Accelerated Payment of Drawback (Single Entry), Customs Form 7609, in an amount equal to the amount of accelerated payment to be received on the entry covered.

(2) *Term bond, Customs Form 7611.* Bond for Accelerated Payment of Drawback (Term), Customs Form 7611, in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

(y) *Drawback Export Bond, Customs Form 7613.* Drawback Export Bond, Customs Form 7613, filed by the drawback claimant using the exporter's summary procedure mentioned in § 22.7 of this chapter, in an amount equal to twenty five percent of the drawback claimed on entries filed by the principal (exporter-claimant) during the term of the bond.

(z) *Special rider to existing entry bonds for entry of merchandise found or believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337).* (1) A special rider to existing entry bonds for the entry of merchandise found or believed by the U.S. International Trade Commission (the Commission) to involve unfair practices or methods of competition shall be taken under the provisions of section 337(e) or (g)(3), Tariff Act of 1930, as amended (19 U.S.C. 1337(e) or (g)(3)), in an amount determined by the Commission.

(2) The bond rider shall provide for the release of the merchandise pending a final determination of the question of its admissibility, and for its exportation or destruction under Customs supervision if it is determined finally that the merchandise shall be excluded from importation. The bond rider shall be in the following form: **[TD 79-231.]**

RIDER

Entry of merchandise believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337)—To be added to Customs forms 7551, 7553, 7595, 7601, and the "General Bond for Smelting and Refining Warehouses."

In addition to any condition of the bond dated ________, in the amount of ________, executed by ________, as principal, and ________, as surety, the principal and surety agree and stipulate the following condition also applies to that bond.

(1) The principal and surety recognize that the U.S. International Trade Commission prohibited entry into the United States of the following merchandise: ________, under the authority of section 337 of the Tariff Act of 1930, as amended.

(2) The principal and surety recognize that the Commission has prohibited entry of that merchandise until the investigation relating thereto is completed, or until its decision that there is a violation of section 337 has become final.

(3) The principal and surety recognize that certain merchandise prohibited from entry by the Commission was, or may be offered for entry into the United States while the Commission's prohibition is in effect.

(4) The principal and surety recognize that the principal desires to obtain a release of that merchandise pending a final determination of the merchandise's admissibility into the United States, as provided under section 337, and for that purpose, the principal and surety execute this stipulation:

If it is finally determined, as provided in section 337 of the Tariff Act of 1930, as amended, to exclude that merchandise from the United States, then, on notification from the district director of Customs, the principal is obligated to export or destroy under Customs supervision the merchandise released under this stipulation within 30 days from the date of the district director's notification.

The principal and surety agree that if the principal defaults on that obligation, the principal and surety shall pay to the district director of Customs an amount as liquidated damages as may be demanded by him under the applicable law and regulations.

Witness our hands and seals this ________ day of ________, 19____.

________________________________(Seal)
(Principal)

________________________________(Seal)
(Surety)

(aa) *Special bond for the clearance of vessel penalized for carrying narcotics.* Special bond for clearance of vessel penalized for carrying smoking opium or other narcotics under the provisions of section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), in the form prescribed in T.D. 45474. This bond shall be in an amount satisfactory to the district director to guarantee the payment of any fine imposed against the owner or master of the vessel.

(bb) *Special bond for the observance of neutrality.* Special bond for observance of neutrality in the form prescribed in T.D. 45474, in an amount equal to double the value of the vessel and cargo on board, including her armament.

(cc) *Containerized Cargo Bond.* Containerized Cargo Bond (Term), in the form prescribed in section 19.40 of this chapter, in the sum of $25,000, or such larger amount as the district director shall determine.

(dd) *Trade Fair Bond.* Trade Fair Bond, in the form prescribed in § 147.3 of this chapter, in an amount to be determined by the district director.

(ee) *Copyright bond.* Copyright bond, the form for which may be obtained from the district director, in an amount equal to the value of the articles, as set forth in the entry, plus the estimated duty. (See § 133.43 of this chapter.)

(ff) *Special bond for the importation of flammable fabrics.* Special bond for the importation of flammable fabrics, the form for which may be obtained from the district director, in an amount equal to double the value of the merchandise.

(gg) *Bond of Customs Cartman for Issuance of Temporary Identification Card.* Bond of Customs Cartman for Issuance of Temporary Identification Card, in the form prescribed in § 112.49(d) of this chapter, in an amount determined by the district director.

§ 113.15 Approval of bond.

The district director at the port where the bond is filed may approve any bonds described in § 113.14, if he is satisfied that:

(a) The amount of the bond is sufficient, and

(b) The bond is in proper form.

§ 113.16 Amount of bond approved by the district director.

The amount of any Customs bond approved by the district director shall not be less than $100, except when the law or regulation expressly provides that a lesser amount be taken. Fractional parts of a dollar shall be disregarded in computing the amount of the bond, which shall be stated always as the next highest dollar.

§ 113.17 Approved form of bond inadequate.

If a situation develops where the approved form of a bond, described in § 113.14, is deemed to be inapplicable, the district director may draft a form which he believes will be sufficient, but before the execution of the bond, the proposed form shall be submitted to the Commissioner of Customs for his consideration and approval.

§ 113.18 Retention of approved bonds.

All the bonds approved by the district director, described in § 113.14, except the Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615, shall remain on file in his office. The bond on Customs Form 4615, described in § 113.14(d), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608).

Subpart C—General and Special Bond Requirements

§ 113.21 Information required on the bond.

(a) *Identification of principal and sureties.* The names of the principal and sureties and their respective places of residence shall appear in full in the body of the bond. In the case of a corporate principal or surety, its legal designation and the address of its principal place of business shall appear.

(b) *Date of execution.* Each bond shall bear the date it was actually executed.

(c) *Statement of the amount.* The amount of the bond shall be stated in both words and figures.

(d) *Use of abbreviations.* Abbreviations shall not be used, except in dates, descriptions of merchandise, the marks and numbers on packages, and the State of incorporation of the principal or the surety.

(e) *Blank spaces on the bond.* Lines shall be drawn through all spaces on the bond which are not filled in.

§ 113.22 Witnesses required.

(a) *Generally.* The signature of each party to a bond executed by a noncorporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, followed by their addresses.

(b) *Witness for both principal and surety.* When two persons signing as witnesses act for both principal and surety, they shall so indicate by stating on the bond "as to both" or a similar term.

(c) *Corporate principal or surety.* No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or corporate surety. For requirements concerning the execution of a bond by an authorized officer or agent of a corporate principal or surety, see §§ 113.34 and 113.37.

§ 113.23 Changes made on the bond.

(a) *Definition of the types of changes*—(1) *Modification or interlineation.* For the purpose of this section, modifications or interlineations are changes which go to the substance of the bond, or are basic revisions of the bond.

(2) *Alterations or erasures.* Alterations or erasures consist of minor changes, such as correction of typographical errors, or change of address, which do not go to the substance, or result in basic revision, of the bond.

(b) *Prior to signing.* When erasures, alterations, modifications, or interlineations are made on the bond prior to its signing by the parties to the bond, a statement by an agent of the surety company or by the personal sureties to that effect shall be placed upon the bond.

(c) *After signing.* If erasures or alterations are made after the bond is signed, but prior to the approval of the bond by Customs, the consent of all the parties shall be written in the bond. Except in cases where a change in the bond is expressly authorized by regulation, or by the Commissioner, no modification or interlineation shall be made on the bond after execution. When modification or interlineation is desired, a new bond will be executed.

(d) *After approval of the bond by Customs.* Except in cases where change in the bond is expressly authorized by regulations, or instructions from the Commissioner, the district director shall not permit a change as defined in paragraph (a) of this section after the bond has been approved by Customs. When changes are desired, a new bond is required, which, when approved, shall supersede the existing bond.

(e) *Stipulations.* All stipulations expressly authorized by the Commissioner pursuant to this section shall be securely attached to the related bond to prevent their loss or misplacement.

§ 113.24 Seals.

(a) *Bonds approved by the Commissioner of Customs.* Bonds which are approved by the Commissioner of Customs must be under seal. The seal on such bonds shall be affixed adjoining the signatures of principal and sureties, if individuals, and the corporate seal shall be affixed adjoining the signatures of persons signing on behalf of a corporation.

(b) *Bonds approved by the district director.* Bonds approved by the district director shall be under seal in accordance with the law of the State in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

§ 113.25 Termination date for term bonds.

The termination date of every term bond shall be the last day of the period and not the first day of a succeeding period; for example, January 1, 19—, to and including December 31 of that same year, and not January 1, 19—, to January 1 of the next year.

§ 113.26 Bond transcript for certain term bonds.

(a) *Submission.* There shall be furnished to the district director with each bond on Customs Forms 7553, 7563-A, 7569, 7595, and 7599 a completed Bond Transcript on Customs Form 53, in triplicate. The bond and bond transcript shall be furnished at least 60 days before the date on which the bond shows it is to become effective, except that a bond on Customs Form 7553 and the related bond transcript may be accepted on or at any time before, the effective date of the bond. It shall be the responsibility of the importer or his agent to execute the bond transcript. **[TD 75-77.]**

(b) *Request for termination.* Each request to terminate a bond of a type named in paragraph (a) of this section prior to the expiration date of the bond shall be filed with the district director of Customs in whose office the bond was approved. The request must be accompanied by a completed Customs Form 53, in triplicate, appropriately marked to terminate an existing bond.

(c) *Submission of new bond to replace existing bond.* When a new bond is submitted to replace an existing bond, two bond transcripts must be furnished. One must be submitted to initiate the new bond, as required by paragraph (a) of this section; the other must be submitted to terminate the existing bond, as required by paragraph (b) of this section.

(d) *Date of termination*—(1) *Whenfiled at least 60 days in advance of requested termination date.* The termination shall take effect on the date requested, if the request and bond transcript are filed at least 60 days in advance of the requested date.

(2) *When filed less than 60 days in advance of termination date.* If the request and bond transcript are not filed at least 60 days in advance of the requested date, the termination shall take effect on the 60th day after receipt by the district director.

(3) *When termination requested by surety without consent of the principal.* When termination of a bond is requested by the surety without the consent of the principal, it shall take effect on the 60th day after approval by the district director.

(4) *When new bond cannot be initiated.* When a new bond cannot be initiated because the Customs Form 53, as required by paragraph (a) of this section, is incorrect, any accompanying Customs Form 53 for termination of an existing bond shall not take effect until such time as both transcripts can take effect.

§ 113.27 Copies of blanket smelting and refining bonds.

Blanket smelting and refining bonds, described in § 113.13(b), requiring the approval of the Commissioner of Customs, shall be accompanied by a sufficient number of copies for transmittal by the Commissioner to each port at which the principal seeks to conduct business.

Subpart D—Principals and Sureties

§ 113.31 Information pertaining to principals and sureties on the bond.

The general information pertaining to the principal and sureties which must be given in the body of the bond is set forth in § 113.21(a).

§ 113.32 Same party as principal and surety; attorney in fact.

(a) *Same party as principal and surety.* The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.* In executing a bond, a person may act as:

(1) Attorney in fact for both principal and surety;
(2) Surety and attorney in fact for the principal; or
(3) Principal and attorney in fact for the surety.

§ 113.33 Partnerships as principals.

(a) *Name of partners on the bond.* Unless written notice of the full names of all partners in the firm has been previously filed with the district director, the names of all persons composing the partnership shall appear in the body of the bonds; for example, "Aaron A. Abel, Bertrand B. Bell and Charles C. Cole, composing the firm of Abel, Bell and Co.

(b) *Execution.* Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495 of the Tariff Act of 1930 (19 U.S.C. 1495), when a Customs bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

§ 113.34 Corporations as principals.

(a) *Name of corporation on the bonds.* The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.* The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.24.

(c) *Bond executed by an authorized officer of corporation.* When the bond is executed by an authorized officer of a corporation and no power of attorney has been filed with the district director, the following evidence of his authority to act shall be furnished:

(1) *Execution of Certificate as to Corporate Principal.* The official character, authority, and signature of the person or persons executing the bond for the corporate principal may be certified by the secretary, assistant secretary, or other officer of the corporation. Such certification shall be made by executing, under corporate seal, the provisions appearing in the bond entitled "Certificate as to Corporate Principal."

(2) *Evidence in lieu of the certificate.* In lieu of the above certificate, there may be attached to the bond so much of the records of the corporation as will show the official character, authority, and signature of the officer signing. The following documents should be attached:

(i) A certificate from the proper public officer showing the legal existence of the corporation. The district director, on bonds which he approves (§ 113.14), may waive the production of evidence of incorporation when such fact is a matter of common knowledge and he certifies this fact.

(ii) A copy of the bylaws, or so much thereof as authorizes the execution of such bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(iii) A copy of the document authorizing such officer to sign such bond, certified by the secretary of the corporation under the corporate seal, or a power of attorney executed in accordance with subpart C of Part 141 of this chapter containing such authority.

(iv) A document verifying the signature of the officer properly attested under the corporate seal.

(d) *Bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the district director (unless exempted from filing by § 141.46 of this chapter), there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute such power shall be shown as prescribed in paragraph (c) of this section.

(e) *Subsidiaries as co-principals.* The provisions of this section shall be applicable to each corporate subsidiary which joins its parent corporation on the bond as co-principal. **[TD 77-277.]**

§ 113.35 Individual sureties.

(a) *Number required.* If individuals sign as sureties, there shall be two sureties on the bond. In the case of bonds approved by the district director, however, one surety may be accepted if the district director is satisfied that such surety is sufficient for the protection of the Government.

(b) *Qualifications to act as surety.* (1) *Residency and citizenship.* Every surety on a Customs bond must be both a resident and citizen of the United States.

(2) *Married women.* A married woman may be accepted as a surety, unless the State in which the bond is executed prohibits her from acting in that capacity.

(3) *Granting of power of attorney.* Any individual other than a married woman in a State where she is prohibited from acting as a surety may grant a power of attorney to sign as surety on Customs bonds. If the power of attorney is limited to bonds of one or several importers, the importers shall be named in the power.

(4) *Property requirements.* Each individual surety must have unencumbered property liable to execution within the limits of the Customs district in which the contract of suretyship is to be performed. The current market value of such property must be equal to the penalty of any bond executed by him. If a single surety is accepted, he shall qualify in an amount equal to twice the penalty of the bond.

(c) *Oath and evidence of solvency.* Before being accepted as a surety, the individual shall:

(1) Take an oath on Customs Form 3579, setting forth:

(i) The amount of his assets over and above all his debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and the location of one or more pieces of real estate owned by him within the limits of the Customs district and the value thereof over and above all encumbrances.

(2) Produce such evidence of solvency and financial responsibility as the district director may require.

(d) *Determination of financial responsibility.* An individual surety shall not be accepted on a bond until he has satisfied the district director as to his financial responsibility. The district director may refer the matter to the special agent in charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, the district director shall require a new oath and determine the financial responsibility of each such surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if he deems it advisable.

§ 113.36 Partners acting as surety in behalf of a partner or in behalf of a partnership.

A person may act as surety for a business partner when such person is acting with respect to his separate property and in his individual capacity and as such must qualify as an individual surety, in accordance with § 113.35. A member of a partnership shall not be accepted as surety on a bond executed by the firm as principal.

§ 113.37 Corporate sureties.

(a) *Lists of corporations and limits of their bonds.* A list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted, shall be furnished annually to all district directors by the Secretary of the Treasury. No corporation shall be accepted as surety on a bond unless named in the current list and no bond shall be for a greater amount than the respective limit stated in such list, unless the excess is protected as prescribed in § 223.11 of the Bureau of Accounts Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.* The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.* The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Signature and seal of the corporation on the bond.* A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.24.

(e) *Two or more corporations as sureties on the same obligation.* Two or more corporations may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporation may act as surety in all cases must be within the limitation prescribed by the Secretary, unless such excess is protected as prescribed in § 223.11 of the Bureau of Accounts Regulations (31 CFR 223.11). Each corporation shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

KNOW ALL MEN BY THESE PRESENTS:

That we, ——————, of —————— as principal, and —————, a corporation existing under the laws of the State of ————, and —————, a corporation existing under the laws of the State of —————, as sureties, are held and firmly bound unto the United States of America, in the sum of ——— thousand dollars ($———), jointly and severally with each surety as hereinafter specified, and the said ————— jointly and severally with said principal in the sum of —————— thousand dollars ($———) of said penal sum and no more; and the said —————— jointly and severally with said principal in the sum of ——— thousand dollars ($———) of said penal sum and no more; for the payment of which respective sums we bind ourselves, our heirs, executors, and administrators, successors and assigns, in the manner and in the respective sums hereinbefore set forth, firmly by these presents. The obligors herein expressly agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this bond shall be treated as the joint and several as well as the several obligation of each of the obligors.

Sealed with our seals, and dated this ——— day of ———, in the year one thousand nine hundred and ———.

(f) *Power of attorney for the agent or attorney of the surety.* Corporations may execute powers of attorney to act in their behalf in the following manner:

(1) *Execution and contents.* The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information:

(i) Corporate surety name and number,

(ii) Name and address of agent or attorney, and his social security number,

(iii) Districts in which the agent or attorney is authorized to act,

(iv) Date of the power of attorney,

(v) Seal of the corporate surety, and

(vi) Attestation of any two principal officers.

(2) *Extent of authorization.* Authorization must be by Customs districts and may not be limited to a single port. A separate Customs Form 5297 shall be submitted for each district, except when the authorization for the agent or attorney to act is for all districts. If the power of attorney covers all districts, the word "All" shall be entered in the appropriate space on the power of attorney.

(3) *Filing.* Corporate surety powers of attorney executed on Customs Form 5297 shall be filed in duplicate (original and copy) at any Customs port of entry. The separate powers of attorney providing authority for an agent or attorney in any number of districts may be filed at one time at the same port. The original of the power of attorney shall be sent by the port to the Customs Data Center. The Customs Data Center shall periodically issue computer printouts reflecting all corporate powers of attorney, which shall be sent to all applicable ports of entry. The copy of the power of attorney shall be retained at the port where the power was filed for use in connection with bonds executed at the port for the surety company by the person covered by the power of attorney, until the first computer printout reflecting the power of attorney has been received.

(4) *Use at port where power not filed before receipt of computer printout.* If the grantee desires to use his power of attorney at a port covered by the power, but other than the one where his power was filed, before the first computer printout reflecting this power of attorney is received, he shall file Customs Form 5297 in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall exhibit this validated copy of the power of attorney as proof of his grant of authority. The validity of this copy of the power shall expire when the first computer printout reflecting this power of attorney is received.

(5) *Term and revocation.* Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of his power of attorney must execute a revocation on Customs Form 5297.

(6) *Change on the power of attorney.* No change, including a change due to typographical error, or change of address, shall be made on the Customs Form 5297 after it has been approved by Customs. To correct the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

§ 113.38 Delinquent sureties.

(a) *Acceptance as surety when in default as principal on another Customs bond.* No person shall be accepted as surety on any Customs bond while he is in default as principal on any other Customs bond.

(b) *Acceptance as surety when in default as surety on another Customs bond.* A surety on a Customs bond which is in default may be accepted as surety on other Customs bonds only to the extent that his assets are unencumbered by such default.

§ 113.39 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) *General provision.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Commissioner of Customs is authorized to enforce, the district director is authorized to accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) *Authority to sell United States obligations on default.* At the time of deposit of any obligation of the United States, other than United States money, with the district director, the obligor shall deliver a duly executed power of attorney and agreement in a form similar to that prescribed in Treasury Department Circular 154, dated October 31, 1969, as amended, authorizing the district director, in case of any default in the performance of any of the conditions or stipulations of the bond, to sell such obligation so deposited and to apply the proceeds of such sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. The format of the power of attorney and agreement, when the obligor is a corporation, is set forth below, and shall be modified as appropriate when the obligor is either an individual or a partnership:

Power of Attorney and Agreement

(For corporation)

Know all men by these presents, that ———, a corporation duly incorporated under the laws of the State of ————, and having its principal office in the city of ———, State of ———, in pursuance of a resolution of the board of directors of said corporation, passed on the —— day of ————, 19—, a duly certified copy of which resolution is hereto attached, does hereby constitute and appoint (Name and official title of bond-approving officer), and his successors in office, as attorney for said corporation, for and in the name of said corporation to collect or to sell, assign, and transfer certain securities described as follows:

such securities having been deposited by it, pursuant to authority conferred by 6 U.S.C. 15, and subject to the provisions thereof and of Treasury Circular No. 154, dated October 31, 1969, as amended, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by it with the United States, under date of ———, which is hereby made a part hereof, and the undersigned agrees that, in case of any default in the performance of any of the conditions and stipulations of such undertaking, its said attorney shall have full power to collect said securities or any part thereof, or to sell, assign, and transfer said securities or any part thereof without notice, at public or private sale, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of such sale or collection in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as its said attorney may deem best; and the undersigned further agrees that the authority herein granted is irrevocable.

And said corporation hereby for itself, its successors and assigns, ratifies and confirms whatever its said attorney shall do by virtue of these presents.

In witness whereof, ———, the corporation hereinabove named, by (Name and title of officer), duly authorized to act in the premises, has executed this instrument and caused the seal of the corporation to be hereto affixed this ——— day of ———, 19—.

[Corporate seal.]

By ....

Before me, the undersigned, a notary public within and for the county of ———, in the State of ——— (or the District of Columbia), personally appeared (Name and title of officer) and for and in behalf of said ———, a corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this —— day of ————, 19—.

[Notarial seal.] ....

Notary Public

Note.—Securities must be described by title, date of maturity, rate of interest, denomination, serial number, and whether coupon or registered. Failure to give complete description will warrant rejection of this power of attorney.

(c) *Application of United States money on default.* If cash is deposited in lieu of sureties on the bond, the district director is authorized to apply such cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.

Subpart E—Production of Documents

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, a card memorandum on Customs Form 5101 shall be prepared by the importer and presented with the entry, whether the importer gives bond on Customs Form 7551 or 7553, or other appropriate form, or stipulates to produce such document.

§ 113.42 Time period for production of documents.

Except when another period is fixed by law or regulations, any document for the production of which a bond or stipulation is given shall be delivered to the district director within 6 months from the date of the transaction in connection with which the bond or stipulation was given, or within any extension of such time which may be granted pursuant to § 113.43(a). If the period ends on a Saturday, Sunday, or holiday, delivery on the next business day shall be accepted as timely.

§ 113.43 Extension of time period.

(a) *Application received within time period.* If a document (other than an invoice or document which must be produced within 2 months, as provided in § 141.61(e) of this chapter) referred to in § 113.42 is not produced within 6 months from the date of the transaction in connection with which the bond or stipulation was given, the district director, in his discretion, upon written application of the importer, may extend the period for one further period of 2 months.

(b) *Late application.* No application for the extension of the period of any bond or stipulation given to assure the production of a missing document shall be allowed by the district director if such application is received later than 2 months after the expiration of the period of the bond or stipulation, and any such extension shall not be allowed by the district director for a period of more than 2 months from the date of expiration of the period.

(c) *Acceptance of a free-entry or reduced-duty document prior to liquidation.* When a bond or stipulation is given for the production of any free-entry or reduced-duty document and a satisfactory document is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, provided the failure to file was not due to willful negligence or fraudulent intent, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be cancelled.

§ 113.44 Assent of sureties to an extension of a bond.

(a) *Extension prescribed by law or regulations.* The assent of the sureties to any extension of the period prescribed in a bond is not necessary when the extension is authorized by law or regulations.

(b) *Other extension.* The assent of the sureties shall be obtained before any extension of the period prescribed in a bond, other than an extension authorized by law or regulation, is allowed.

§ 113.45 Charge for production of a missing document made against a term bond.

When a charge for the production of a missing document is made against a term bond, the charge shall be in the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

§ 113.46 Cancellation of bond charges resulting from failure to produce documents.

Section 172.22 of this chapter sets forth provisions relating to the cancellation of bond charges resulting from failure to produce documents.

Subpart F—Assessment of Damages and Cancellation or Termination of Bond

§ 113.51 Cancellation of bond or charge against the bond.

The Commissioner of Customs may authorize the cancellation of any bond provided for in this part or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient. **[TD 76-324.]**

§ 113.52 Failure to satisfy the bond.

If any Customs bond, except one given only for the production of free-entry or reduced-duty documents (see §§ 113.43(c) and 172.22(c) of this chapter), is unsatisfied upon the expiration of 90 days after liability has accrued thereunder, the matter shall be reported to the United States attorney for prosecution unless measures have been taken to file an application for relief in accordance with the provisions of Part 172 of this chapter or to effect a satisfactory settlement.

§ 113.53 Waiver of Customs requirement supported by a bond.

(a) *Waiver by the Commissioner of Customs.* When a Customs requirement supported by a bond is waived by the Commissioner of Customs, the waiver may be:

(1) Unconditional, in which case the importer is relieved from the payment of liquidated damages;

(2) Conditioned upon prior settlement of the bond obligation by payment of liquidated damages; or

(3) Conditioned upon such other terms and conditions as the Commissioner may deem sufficient.

(b) *Waiver by the district director.* When a Customs requirement supported by a bond is waived by the district director pursuant to the authority conferred upon him in these regulations, the waiver shall be unconditional.

§ 113.54 Cancellation of erroneous charges.

(a) *Bonds.* Section 172.31 of this chapter sets forth the cancellation of erroneous charges against the bond when it is determined that liquidated damages assessed or paid under a bond did not in fact accrue.

(b) *Carnets.* Section 114.34 of this chapter sets forth the cancellation of erroneous charges involving carnets.

§ 113.55 Cancellation of export bonds.

(a) *Definition of exportation.* An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

(b) *Manner of cancellation.* A bond to assure the exportation of merchandise may be cancelled:

(1) *Upon exportation.* Upon the specification of such merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if such certificate is required by the district director.

(2) *Upon payment of liquidated damages.* Upon the payment of liquidated damages in accordance with the provisions of § 10.39 of this chapter, if exportation or destruction is not timely in the case of articles entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202).

(c) *Cancellation of vessel, vehicle, or aircraft bond.* The requirement of the vessel, vehicle, or aircraft bond, Customs Form 7567 or 7569, may be considered as having been complied with upon the production of the applicable documents mentioned in paragraph (b)(1) of this section.

(d) *Foreign landing certificate.* A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of lading. Landing certificates are required in the following cases:

(1) *Mandatory.* A landing certificate shall be required in every case to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317)), or machinery for vessels.

(2) *Optional with the district director.* A landing certificate may be required by the district director for merchandise exported from the United States, or residue cargo, when he deems such a certificate necessary for the protection of the revenue.

(3) *Waiver.* Except as provided for in § 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the district director, accompanied by such proofs of exportation and landing abroad as may be available.

(e) *Articles less than $10.* In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed $10 and which are exported within the period of the bond (including any lawful extension) but without Customs supervision, the bond may be cancelled upon production of evidence of a bona fide exportation satisfactory to the district director.

§ 113.56 Termination of bond of Customs cartman or lighterman.

(a) *Termination by cartman or lighterman.* A customhouse cartman or lighterman may terminate the Bond of Customs Cartman or Lighterman, Customs Form 3855, by filing with the district director by whose office the bond was approved a request for termination. The termination shall take effect on the date requested if the date is subsequent to the date of receipt of the request. If no termination date is requested or the termination date requested is prior to the date of receipt of the request, the termination shall take effect on the date of receipt of the request by the district director. If a new bond with good and sufficient sureties is not furnished by the cartman or lighterman prior to the effective date of the termination of the previous bond, the customhouse cartman's or lighterman's license will terminate concurrently with the bond. **[TD 76-324.]**

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate the Bond of Customs Cartman or Lighterman, Customs Form 3855, on which it is obligated. The surety shall provide reasonable notice to both the district director by whose office the bond was approved and the principal of his intent to terminate. Such notice shall contain the date on which the termination shall be effective and shall be sent by certified mail, with a return receipt requested. If a new bond with good and sufficient sureties is not furnished by the cartman or lighterman prior to the effective date of the termination of the previous bond, the customhouse cartman's or lighterman's license will terminate concurrently with the bond. (R.S. 251, as amended, secs. 551, 565, 623, 624, 46 Stat. 742, as amended, 747, as amended, 759, as amended (19 U.S.C. 66, 1551, 1565, 1623, 1624).)

Subpart G—Special Provisions Concerning Consolidated Aircraft Bonds and General Term Bonds for the Entry of Merchandise

§ 113.61 Consolidated Aircraft Bond.

(a) *Bond not authorization for carriage of bonded merchandise.* Approval of a Consolidated Aircraft Bond, Customs Form 7605, will not authorize an airline to act as a carrier for the transportation of bonded merchandise unless and until the airline filing the bond is qualified as a carrier for such transportation, in accordance with § 112.12 of this chapter.

(b) *Discontinuance of ordinary carrier's bond.* When an airline has filed a bond on Customs Form 7605, and obtained Customs approval of the bond, it may obtain discontinuance of its bond on Customs Form 3587 by request to the district director at the port where the latter bond was approved.

§ 113.62 General Term Bond for Entry of Merchandise.

(a) *Application required.* A principal desiring to execute the General Term Bond for Entry of Merchandise, Customs Form 7595, shall file with the district director an application for permission to file the bond.

(b) *Form of the application.* The application for the General Term Bond For Entry of Merchandise, Customs Form 7595, shall show:

(1) The general character of the merchandise to be entered; and

(2) The total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. Such total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption, even though some of or all the merchandise may have been entered under bond. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

PART 114—CARNETS

Sec.
114.0 Scope.

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Authority: R.S. 251, 77A Stat. 14, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1623, 1624.

Source: T.D. 70–134, 35 FR 9261, June 16, 1970, unless otherwise noted.

§ 114.0 Scope.

This part is concerned with the use of international Customs documents known as carnets. It also contains provisions concerning the approval of associations to issue carnets in the United States covering merchandise to be exported and to guarantee carnets issued abroad covering merchandise to be imported. The carnet serves simultaneously as a Customs entry document and as a Customs bond. **[TD 70–134.]**

Subpart A—General Provisions

§ 114.1 Definitions.

The following are general definitions for the purpose of Part 114:

(a) *Commissioner.* "Commissioner" means the Commissioner of Customs.

(b) *Issuing association.* "Issuing association" means an association approved by the Commissioner for the issue of carnets in the Customs territory of the United States under a Customs Convention to which the United States has acceded.

(c) *Guaranteeing association.* "Guaranteeing association" means an association approved by the Commissioner to guarantee the payment of obligations under carnets covering merchandise entering the Customs territory of the United States under a Customs Convention to which the United States has acceded.

(d) *A.T.A. carnet.* "A.T.A. carnet" (Admission Temporaire—Temporary Admission) means the document reproduced as the Annex to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631). **[TD 71–70.]**

(e) *Reserved* **[TD 82–116.]**

(f) *TIR carnet.* "TIR carnet" (Transport International Routier) means the document reproduced as Annex 1 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIAS 6633). **[TD 71–70.]**

§ 114.2 Customs Conventions.

The regulations in this part relate to carnets provided for in the following Customs Conventions:

(a) Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (hereinafter referred to as A.T.A. Convention).

(b) Reserved **[TD 82–116.]**

(c) Customs Convention on the International Transport of Goods under Cover of TIR Carnets (hereinafter referred to as the TIR Convention). **[TD 71–70.]**

§ 114.3 Carnets.

(a) *Use.* A carnet issued in conformity with the provisions of a Convention identified in § 114.2 and with the regulations in this part shall serve as an entry document within the scope contemplated by the applicable Convention and as a bond for the performance of acts in compliance with the provisions of such Convention and the Customs statutes and regulations which are involved. Such carnet shall: **[TD 71–70.]**

(1) Show the period for which it is valid,

(2) Be fully completed in accordance with the provisions of the Convention which provides for its issuance, and

(3) Include an English translation whenever the goods covered by a carnet are described in another language.

(b) *Area of validity.* Carnets are valid in the customs territory of the United States which includes only the States, the District of Columbia, and Puerto Rico. **[TD 71–70.]**

Subpart B—Issuing and Guaranteeing Associations

§ 114.11 Approval.

(a) *Documents to be furnished.* Before an association may be approved to serve as issuing association or guaranteeing association in the United States with respect to carnets authorized under a Customs Convention to which the United States has acceded, such association shall furnish the Commissioner a written undertaking, in a form satisfactory to the Commissioner, to perform the functions and fulfill the obligations specified in the Convention under which carnets are to be issued or guaranteed. Evidence of affiliation with an appropriate international organization shall also be required if affiliation with such an organization is required by the Convention under which carnets are to be issued or guaranteed. **[TD 71–70.]**

(b) *Publication of notice of approval.* Notice of the approval of an issuing association or a guaranteeing association with respect to a Customs Convention to which the United States has acceded will be published in the Federal Register by the Commissioner.

§ 114.12 Termination of approval.

(a) *For cause.* The Commissioner may suspend or revoke the approval previously given to any issuing association or guaranteeing association for failure or refusal to comply with the duties, obligations, or requirements set forth in its written undertaking on which the approval was based; in the applicable Customs Convention; or in the customs regulations; or upon termination of the affiliation with an appropriate international organization required by § 114.11(a). Before such suspension or revocation, the Commissioner shall give the association a reasonable opportunity to refute the alleged failure of compliance. [TD 71-70.]

(b) *Withdrawal.* To be relieved of future obligations, an approved guaranteeing association must notify the Commissioner, in writing, not less than 6 months in advance of a specified termination date that it will nto guarantee the payment of obligations under carnets accepted by district directors of Customs after the specified date. The receipt of such notice by the Commissioner will in no way affect the responsibility of the guaranteeing association for payment of claims on carnets accepted by district directors before the designated termination date.

(c) *Notice.* Notice of the suspension or revocation of the approval of an issuing association or a guaranteeing association, or of the withdrawal of an approved guaranteeing association, with respect to a Customs Convention to which the United States has acceded will be published in the Federal Register by the Commissioner. [TD 71-70.]

Subpart C—Processing of Carnets

§ 114.21 Acceptance.

A carnet executed in accordance with § 114.3 shall be accepted provided that when the carnet is presented an association for the guaranteeing of such carnets has been approved in accordance with § 114.11 and such approval has not been terminated as provided for in § 114.12.

§ 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transportated, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm. consisting essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

(b) Reserved [TD 82-116.]

(c) *TIR carnet*—(1) *Use.* The TIR carnet may be accepted at any port of entry for the transport of merchandise in road vehicles or in containers, even if the containers, without being loaded on road vehicles, are carried by other means of transport for part of the journey between the customs offices of departure and destination. The TIR carnet may also be accepted for the transport of "heavy or bulky goods" as defined in Article 1 of the TIR Convention. The TIR carnet covers the transportation of merchandise for customs purposes only. Road vehicles transporting merchandise under cover of a TIR carnet must also comply with all other applicable requirements of Federal and State agencies concerned with the regulations of such vehicles and their personnel. [TD 71-70.]

(2) *Taken on charge.* A TIR carnet is "taken on charge" by Customs when it is accepted as a transportation entry and when the shipment covered thereby is receipted for by the bonded carrier (see § § 18.1, 18.2, and 18.10(a) of this chapter). Until the carnet is "taken on charge," the guaranteeing association shall have no liability to the United States under the carnet.

(d) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier's bond. [TD 82-116.]

§ 114.23 Maximum period.

(a) *A.T.A. carnet.* No A.T.A. carnet with a period of validity exceeding 1 year from date of issue shall be accepted. [TD 71-70, 82-116.]

(b) *TIR carnet.* A TIR carnet may be accepted without limitation as to time provided it is initially "taken on charge by a customs administration (United States or foreign) within the period of validity shown on its front cover." [TD 71-70.]

§ 114.24 Additions.

When an A.T.A. carnet has been issued, no extra item shall be added to the list of goods enumerated on the reverse of the cover of the carnet or on any continuation sheet annexed thereto. [TD 82-116.]

§ 114.25 Replacement of carnets.

In the case of destruction, loss, or theft of an A.T.A. carnet while the goods which it covers are in the Customs territory of the United States, the district director of Customs at the port where such goods were imported may, upon request of the association which issued the carnet abroad, accept a replacement document, the validity of which expires on the same date as that of the carnet which it replaces, provided the district director determines that the description of merchandise in the replacement document fully corresponds to the description set forth in the importation voucher from the carnet to be replaced. [TD 82-116.]

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditional discharge.* An A.T.A. carnet shall be discharged unconditionally by the district director of customs when he is satisfied that all merchandise covered thereby is reexported or destroyed. A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported under customs supervision. In all other cases, any discrepancy shall be noted on the appropriate counterfoil, and action shall be taken in accordance with § 10.39 or § 18.6 of this chapter. [TD 71-70, 82-116.]

(b) *Effect of discharge.* When a district director has discharged a carnet unconditionally by completion of the appropriate counterfoil, no claim may be brought against the guaranteeing association for payment under the carnet unless it can be established that the discharge was obtained improperly or fraudulently or, in the case of an A.T.A. carnet, that there has been a breach of the conditions of temporary importation. [TD 71-70, 82-116.]

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to Customs is not accepted, it shall be § 114.22(c)(2)). If merchandise not required to be transported in bond moving under cover of a TIR carnet is not exported, the carnet shall be stamped "Cancelled." [TD 71-70, 82-116.]

Subpart D—Miscellaneous

§ 114.31 Restrictions.

(a) *Mail importations.* Carnets shall not be accepted for importations by mail. [TD 71-70.]

(b) *Temporary importations.* Merchandise not entitled to temporary importation under bond shall not be imported under cover of an A.T.A. or E.C.S. carnet. [TD 71-70.]

(c) *Transportation in bond.* Except as provided in § 18.43 of this chapter, merchandise not entitled to transportation in bond shall not be transported under cover of a TIR carnet. [TD 71-70.]

§ 114.32 Samples for taking orders.

A.T.A. carnets may be accepted for unaccompanied samples and samples imported by a natural person resident in the Customs territory of the United States, as well as for samples imported by a natural person resident in the territory of another contracting party to the A.T.A. Convention. [TD 82-116.]

§ 114.33 Action against carnet user.

In the event of fraud, violation, or abuse of the privileges of a Convention, action may be taken against the users of carnets for applicable duties and charges or liquidated damages, as the case may be. Penalties to which such persons have thereby rendered themselves liable may also be imposed.

§ 114.34 Cancellation of erroneous charges.

(a) *TIR carnet.* When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be cancelled by the district director and, if paid, refunded, as provided by § 18.8 of this chapter. [TD 74-227.]

(b) *A.T.A. carnet.* When it is determined that liquidated damages assessed or paid for failure to properly reexport or destroy merchandise temporarily imported under cover of an A.T.A. carnet did not in fact accrue, the liquidated damages shall be cancelled by the district director and, if paid, refunded as provided by § 10.39 of this chapter. [TD 82-116.]

(c) *Determination dependent upon a construction of law.* When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling by the Commissioner of Customs decisive of the issue. Approval of the Commissioner shall be requested in all doubtful cases. (See § 172.31 of this chapter.)

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

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Authority: The provisions of this Part 123 issued under R.S. 251, sec. 624, 46 Stat. 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, unless otherwise noted.

Source: The provisions of this Part 123 contained in T.D. 70-121, 35 FR 8215, May 26, 1970, unless otherwise noted.

123.0 Scope.

This part contains special regulations pertaining to Customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unlading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, and baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of Part 6 of this chapter. The arrival of vessels of less than 5 net tons by sea and of all vessels 5 net tons or over, and the clearance of all vessels departing for Canada or Mexico are governed by the provisions of Part 4 of this chapter. **[TD 70-121.]**

Subpart A—General Provisions

§ 123.1 Report of arrival from Canada or Mexico and permission to proceed.

(a) *Persons.* Any person arriving otherwise than in a vessel or vehicle from Canada or Mexico, who is importing or bringing in baggage or merchandise with him, shall immediately report his arrival to the Customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(b) *Vehicles.* The person in charge of every vehicle arriving in the United States from Canada or Mexico, whether or not the vehicle is carrying passengers, baggage, or merchandise, shall immediately report arrival to the Customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(c) *Vessels*—(1) *Less than 5 net tons arriving otherwise than by sea.* The master of every vessel of less than 5 net tons arriving from Canada or Mexico otherwise than by sea, if carrying baggage or other merchandise shall immediately report arrival to the Customs officer at the port of entry or customhouse nearest the point at which the vessel entered the territorial waters of the United States and shall not proceed until permission to proceed is granted.

(2) *Other vessels.* For requirements applicable to vessels of less than 5 net tons arriving by sea, and to vessels of 5 net tons or over, see § § 4.2 and 4.3 of this chapter. (Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.2 Penalty for failure to report arrival or for proceeding without a permit.

(a) *Vehicles.* Whether or not a vehicle is carrying passengers, baggage, or merchandise, the penalty of $100 imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies.

(b) *Vessels of less than 5 net tons.* The penalty imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies only when such vessels are carrying baggage or merchandise. (Sec. 460, 46 Stat. 717, as amended; 19 U.S.C. 1460)

§ 123.3 Inward foreign manifest required.

(a) *General requirements.* Baggage or other merchandise carried on a vehicle or on a vessel of less than 5 net tons arriving otherwise than by sea from Canada or Mexico shall be listed on a manifest as prescribed by § 123.4. Vessels which are required to make entry under § 4.3 of this chapter because they are arriving by sea or are 5 net tons or over shall have manifests on board as provided in § 4.7(a) of this chapter.

(b) *Exception where in possession of traveler.* When baggage arrives in the actual possession of a traveler, his declaration will be accepted in lieu of a manifest. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest but shall be presented for inspection, and entry shall be made in accordance with the applicable laws and regulations. (Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.4 Inward foreign manifest forms to be used.

The inward foreign manifest required by § 123.3 for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico otherwise than by sea with baggage or merchandise, shall be on Customs Form 7533, except as provided for shipments in transit in Subparts C, D, E, F, and G of this part, in the following special cases:

(a) For merchandise free of duty entered on Customs Form 7523, the same form may be used as a manifest in lieu of other forms. (See § 143.23 of this chapter.) **[TD 73-175.]**

(b) For dutiable merchandise not exceeding $250 in value entered on Customs Form 5119-A, the same form may be used as a manifest in lieu of other forms. (See § 143.21 of this chapter.) The district director may also allow such merchandise to be entered informally upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent: **[TDs 73-175, 75-105.]**

> I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

(c) For a shipment not exceeding $250 in value consisting of articles of American origin entered free of duty under the provisions of § 10.1(f) of this chapter and imported in a vehicle, Customs Form 3311 used in entering the goods, in duplicate, may be accepted in lieu of a manifest.

(d) For baggage arriving in baggage cars, Customs Form 7533-A shall be used. (See Subpart G of this part.) (R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1484, 1498, 1624))

§ 123.5 Certification and filing of inward foreign manifest.

The manifest listing baggage and other merchandise, certified by the master of the vessel or the person in charge of the vehicle, shall be presented to the Customs officer at the time the report of arrival is made. It shall be filed in the original only, unless additional copies are required in this part.

§ 123.6 Train sheet for arriving railroad trains.

The conductor of a railroad train arriving from Canada or Mexico shall present to the Customs officer at the port of arrival individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials.

§ 123.7 Manifest used as an entry for unconditionally free merchandise value not over $250.

When a shipment not exceeding $250 in value which is unconditionally free of duty and not subject to quota or to internal revenue tax arrives on a vessel of less than 5 net tons arriving otherwise than by sea, the inward foreign manifest on Customs Form 7533 may be presented in duplicate and used as an entry if:

(a) No merchandise for a different entrant is listed on the same page of the manifest,

(b) The country of exportation of the merchandise, its value, and the provision of law under which free entry is claimed are noted thereon, and

(c) Evidence of the right to make entry is furnished as required by § 141.11 of this chapter. (Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a)) **[TD 73-175.]**

§ 123.8 Permit or special license to unlade or lade a vessel or vehicle.

(a) *Permission to unlade or lade.* Before any passenger or merchandise, including baggage, may be landed or discharged from any vessel of less than 5 net tons arriving from Canada or Mexico by any route, or from a vehicle, permission to unlade shall be obtained from a Customs officer. Permission to unlade at night, on a Sunday or holiday, or to lade at night on a Sunday or holiday merchandise requiring Customs supervision, shall be obtained from the district director of Customs. Permission to unlade is not required for a vessel of less than 5 net tons arriving otherwise than by sea carrying no baggage or other merchandise. For permission to unlade or lade for vessels of 5 net tons or over, see § 4.30 of this chapter.

(b) *Application for permit or special license to unlade or lade*—(1) *Permit to unlade during regular hours.* Application for a permit to unlade any vehicle or a vessel of less than 5 net tons may be made and permission may be granted orally. The district director of Customs may require that the application and permission to unlade be on Customs Form 3171.

(2) *Special license to unlade or lade at night, on a Sunday or holiday.* Application for permission to unlade passengers or merchandise from, or lade any merchandise requiring Customs supervision on, a vessel of less than 5 net tons or a vehicle arriving from or departing for Canada or Mexico by any route at night, on a Sunday or holiday, and requests for any reimbursable overtime services shall be made on Customs Form 3171. In the discretion of the district director of Customs and under such condition as he may deem advisable the application may be made orally for vessels of less than 5 net tons and vehicles not carrying persons or property for hire, but requests for reimbursable overtime services shall be on Customs Form 3171. The district director may authorize Customs inspectors to approve the request for overtime services and to grant oral permission to unlade or lade.

(c) *Cash deposit or bond for overtime services.* A request for reimbursable overtime services shall not be approved unless the required cash deposit or bond on Customs Form 7567, 7569, or 7597 shall have been received. However, when a carrier has on file a bond on Customs Form 3587, no further bond shall be required if the merchandise, including baggage, is covered by an entry for transportation in bond.

(d) *Term permit or special license.* A permit or special license required by this section may be issued on a term basis in the manner, and under the conditions applicable, described in § 4.30 (f) or (g) of this chapter. (Secs. 448, 450, 451, 452, 453, 454, 459, 46 Stat. 714, 715, as amended, 716, 717, as amended; 19 U.S.C. 1448, 1450, 1451, 1452, 1453, 1454, 1459)

§ 123.9 Explanation of a discrepancy in a manifest.

(a) *Provisions applicable.* (1) *Failure to file a manifest; overages.* If there is a failure to file a manifest in accordance with § 123.5, or if merchandise is found that is not listed on a manifest filed in accordance with that section (an overage), the merchandise and the vessel or vehicle in which it was brought or imported into the United States are subject to forfeiture, and the master of the vessel or the person in charge of the vehicle is liable, in addition to any other penalty, to a penalty equal to the value of the merchandise, under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460).

(2) *Shortages.* If merchandise is manifested but not found on board (a shortage), the master, person in charge, owner, or agent of the vessel or vehicle, or any person directly or indirectly responsible for the discrepancy between the merchandise and manifest, shall be subject to a penalty of $500 under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

(b) *Report of discrepancies.* (1) *Discrepancies discovered by master, person in charge, owner, agent, or person directly or indirectly responsible.* The master, person in charge, owner, or agent of the vessel or vehicle, or any person directly or indirectly responsible for any discrepancy between the merchandise and the manifest, shall report any discrepancy to the district director within 60 days after the date of arrival by completing a report for an overage or a declaration for a shortage. The overage report or shortage declaration may be made on the appropriate manifest form, as listed in § 123.4, or on Customs Form 5931, Discrepancy Report and Declaration. If no manifest had been filed, an original copy of the appropriate form, as listed in § 123.4, should be used. In each case in which a manifest form is used, the form shall be marked or stamped "Overage Report" or "Shortage Declaration", as appropriate. The form used shall list the merchandise involved and state the reasons for the discrepancy.

(2) *Discrepancies discovered by Customs.* The district director immediately shall advise the master, person in charge, owner, agent, or any person directly or indirectly responsible for the discrepancy between the merchandise and the manifest of any discrepancy discovered by Customs officers which has not been reported. The person so notified shall file an explanation of the discrepancy, as required by paragraph (b)(1) of this section, within 30 days of notification, or within 60 days after arrival of the vessel or vehicle, whichever is later. The district director may notify the master, person in charge, owner, agent, or any person directly or indirectly responsible for the discrepancy by furnishing a copy of Customs Form 5931 to that person, or by any other appropriate written means. Use of Customs Form 5931 shall not preclude assessment of any penalty or liability to forfeiture otherwise incurred.

(c) *Statement on report of discrepancy required.* The overage report or shortage declaration shall bear the following statement signed by the master of the vessel, the person in charge of the vehicle, the owner of the vessel or vehicle, an authorized agent, or the person directly or indirectly responsible for the discrepancy:

I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reasons stated. I also certify that evidence to support a claim of nonimportation or proper disposition of merchandise will be retained in the carrier's files for a period of at least one year from the date of this report of discrepancy and will be made available to Customs upon demand.

(d) *Action on the discrepancy report.* (1) In accordance with the proviso to 19 U.S.C. 1584, no penalty shall be incurred under that section if—

(i) The manifest discrepancy relates only to a shortage;

(ii) There is timely filing of the discrepancy report;

(iii) There has been no loss of revenue;

(iv) The district director is satisfied that the discrepancy resulted from clerical error or other mistake; and

(v) In the case of a discrepancy not reported initially by the master, person in charge, owner, agent, or the person directly or indirectly responsible, the district director is satisfied that there is a valid reason for failure to file the discrepancy report.

(2) If the criteria in paragraph (d)(1) are not met, applicable penalties under 19 U.S.C. 1460 or 19 U.S.C. 1584 shall be assessed, and the vessel or vehicle shall be liable to forfeiture under 19 U.S.C. 1460 (see § 162.31 of this chapter).

(3) Any penalty or liability to forfeiture incurred under 19 U.S.C. 1460 or 19 U.S.C. 1584 may be mitigated or remitted under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618).

(e) *Penalty assessment.* For the purpose of assessing penalties under 19 U.S.C. 1460 or 19 U.S.C. 1584, the value of the merchandise shall be determined as described in section 162.43 of this chapter.

(f) *Lack of knowledge does not relieve liability.* The fact that the master of the vessel, the person in charge of the vehicle, or the owner of the vessel or vehicle had no knowledge of a discrepancy shall not relieve the master, the person in charge, or the owner from a penalty, or the vessel or vehicle from liability to forfeiture, incurred under 19 U.S.C. 1460 or 1584.

(g) *Clerical error or other mistake defined.* For the purpose of this section, the term "clerical error or other mistake" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of manifests. However, repeated similar manifest discrepancies by the same persons may be considered the result of negligence and not clerical error or other mistake. **[TD 80-236.]**

Subpart B—International Traffic

§ 123.11 Supplies on international trains.

(a) *Articles acquired abroad.* Articles subject to internal revenue tax and other merchandise acquired abroad constituting supplies arriving on international trains crossing and recrossing the boundary line, for which the train crew elects not to file an inventory as provided for in paragraph (b) of this section, shall be subject to duty and tax unless locked or sealed in a separate compartment or locker upon arrival, and the lock or seal remains unbroken until the train departs from the United States at the final port of exit.

(b) *Inventory procedure.* Supplies acquired abroad for which internal revenue stamps are not required may be used in the United States under the following procedure:

(1) *Port of arrival.* An inventory executed in duplicate consisting of an itemized list showing the kind and quantity of each class of supplies on hand in the car with space for a parallel column in which to show at the port of exit the quantity used, shall be certified by the person in charge of the car and furnished to the Customs officer upon arrival. The Customs officer shall certify the correctness of both copies of the inventory, return the original to the person in charge of the car and retain the duplicate, or forward it to the port of exit if this differs from the port of arrival.

(2) *Port of exit.* Upon arrival at the port of exit, the inventory returned at the port of arrival to the person in charge of the car shall be submitted to the Customs officer after completion by showing the quantity of each item used in the United States, and being certified by the person in charge of the car. Entries must be filed and applicable duties and taxes paid at the port of exit on the quantity of supplies consumed in the United States.

(c) *Supplies purchased in the United States.* Supplies purchased in the United States shall be passed free of duty without inventory or entry. (Sec. 465, 46 Stat. 718; 19 U.S.C. 1465)

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without formal entry or the payment of duty to proceed to and return from the end of the run, in accordance with the following:

(1) *On inward trip.* Unless formally entered and cleared through Customs into the United States, a foreign locomotive shall be used on the inward trip only in connection with taking the inbound train to the last place in a continuous haul, including the switching of cars which it has hauled into the United States. Other foreign railroad equipment may proceed to the place of complete unloading for any merchandise imported therein.

(2) *On outward trip.* Foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. Other foreign railroad equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt return to the country from which it entered the United States.

(b) *Admission of empty equipment.* Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through the country from which the equipment entered the United States.

(c) *Penalty for improper use.* The use of any foreign locomotive and other foreign railroad equipment in violation of this section may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). **[TD 79-160.]**

(d) *Domestic and foreign locomotives and other railroad equipment defined.* For the purpose of this section and section 123.13, locomotives or other railroad equipment manufactured in, or regularly imported into, the United States, shall be considered "domestic" if not subsequently formally entered and cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of the return of the equipment to the United States. Other locomotives and railroad equipment shall be considered "foreign". (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322) **[TD 73-73.]**

§ 123.13 Foreign repairs to domestic locomotives and other domestic railroad equipment.

A report of the first arrival in the United States of a domestic locomotive or other railroad equipment after repairs have been made in a foreign country other than those required to restore it to the condition in which it last left the United States ("running repairs"), shall be made promptly, in writing, to the Customs officer at the port of re-entry. The report shall state the time and place of arrival, and the nature and value of the repairs. Each such locomotive or other piece of railroad equipment when withdrawn from international traffic shall be subject to duty upon the value of the repairs (other than "running repairs"), made abroad at the rate at which the repaired article would be dutiable if imported. For the appropriate determination as to whether the locomotive or other railroad equipment should be considered "domestic" or "foreign", see § 123.12(d). (Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202, (Gen. Hdnte. 11), 1322) **[TD 73-73.]**

§ 123.14 Entry of foreign-based trucks, busses, and taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, however owned, which have their principal base of operations in a foreign country and which are engaged in international traffic, arriving with merchandise or passengers destined to points in the United States, or arriving empty or loaded for the purpose of taking out merchandise or passengers, may be admitted without formal entry or the payment of duty. Such vehicles shall not engage in local traffic except as provided in paragraph (c) of this section.

(b) *Deposit of registration by vehicle not on regular trip.* In any case in which a foreign-based truck, bus, or taxicab admitted under this section is not in use on a regularly scheduled trip, the district director may require that the registration card for the vehicle be deposited pending the return of the vehicle for departure to the country from which it arrived, or the district director may take other appropriate measures to assure the proper use and departure of the vehicle.

(c) *Use in local traffic.* Foreign-based trucks, busses, and taxicabs admitted under this section shall not engage in local traffic in the United States unless the vehicle comes within one of the following exceptions:

(1) The vehicle may carry merchandise or passengers between points in the United States while in use on a regularly scheduled trip if such carriage is directly incidental to the international schedule.

(2) A foreign-based truck trailer may carry merchandise between points in the United States on the return trip to the country from which it entered the United States under the same conditions as are prescribed for "other equipment" in § 123.12(a)(2).

(d) *Penalty for improper use.* The use of any vehicle referred to in this section in violation of this section may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322) **[TD 79-160]**

§ 123.15 Vehicles of foreign origin used between communities of the United States and Canada or Mexico.

Vehicles of foreign origin which are used for commercial purposes between adjoining or neighboring communities of the United States and Canada or Mexico, such as delivery, peddlers', and service trucks, or wagons, are subject to duty on first arrival, but may thereafter be admitted without formal entry or the payment of duty so long as they are continuously employed in such service. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.16 Entry of returning trucks, busses, or taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, whether of foreign or domestic origin, taking out merchandise or passengers for hire or leaving empty for the purpose of bringing back merchandise or passengers for hire shall on their return to the United States be admitted without formal entry or the payment of duty upon their identity being established by State registration cards.

(b) *Use in local traffic.* Trucks, busses, and taxicabs in use on regularly scheduled trips in international traffic, which may include the incidental carrying of merchandise or passengers for hire between points in a foreign country, or between points in this country, shall be admitted under this section. However, such vehicles taken abroad for commercial use between points in a foreign country, otherwise than in the course of a regularly scheduled trip in international traffic shall be considered to have been exported and must be regularly entered on return. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.17 Foreign repairs to domestic trucks, busses, taxicabs and their equipment.

(a) *Domestic trucks, busses, and taxicabs and their equipment defined.* For the purpose of this section, trucks, busses, and taxicabs and their equipment manufactured in, or regularly imported into the United States, shall be considered "domestic" if not subsequently formally entered and cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of their return to the United States.

(b) *Report of arrival and payment of duty on repairs.* A report of the first arrival in the United States of domestic trucks, busses, and taxicabs and their equipment after repairs have been made in a foreign country, other than those required to restore such vehicle or equipment to the condition in which it last left the United States ("running repairs"), shall be made by the driver or person in charge of the vehicle promptly, in writing, to the Customs officer at the port of reentry. The report shall state the time and place of arrival and the nature and value of the repairs. Each such vehicle or its equipment when withdrawn from international traffic shall be subject to duty upon the value of the repairs (other than "running repairs") made abroad at the rate at which the repaired article would be dutiable if imported. (Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnote 11), 1322)

§ 123.18 Equipment and materials for constructing bridges or tunnels between the United States and Canada or Mexico.

(a) *Admission of equipment and materials.* Equipment for use in construction of bridges or tunnels between the United States and Canada or Mexico shall be admitted without entry or the payment of duty. Materials for such use shall be admitted without entry or payment of duty only for installation in the bridge or tunnel proper, and not in the approaches on land at the United States end of such bridge or tunnel.

(b) *Customs supervision.* All articles admitted under paragraph (a) of this section shall be subject to Customs supervision at the expense of the builder until installed, entered, or exported. (Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

Subpart C—Shipments in Transit Through Canada or Mexico

§ 123.21 Merchandise in transit.

(a) *Status.* Merchandise may be transported from one port to another in the United States through Canada or Mexico in accordance with the regulations in this subpart of Subparts E for trucks transiting Canada, F for commercial traveler's samples, or G for baggage. Merchandise so transported is not subject to treatment as an importation when returned to the United States, and no inward foreign manifest is required for merchandise returned under an in-transit manifest. In-transit merchandise returned to the United States shall be treated as an importation as are shipments made from Canada or Mexico if:

(1) An in-transit manifest is not furnished for the merchandise upon its return to the United States;

(2) The merchandise has been transshipped in foreign territory without Customs supervision when the transshipment required the breaking of Customs seals; or

(3) The Customs inspector finds any of the Customs seals applied to the conveyance or compartment unlocked or missing.

(b) *Use of certain vessels prohibited.* Merchandise shall not be transported from port to port in the United States through Canada or Mexico by vessel in violation of the provisions of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or section 588, Tariff Act of 1930, as amended (19 U.S.C. 1588). (See § 4.80 of this chapter.)

(c) *Regulations applicable.* The provisions of this subpart shall govern all merchandise transported from one port to another in the United States through Canada or Mexico under in-transit procedures, except as otherwise provided in this subpart or in Subpart E. for truck shipments transiting Canada, Subpart F for commercial traveler's samples transiting Canada, and Subpart G for baggage transiting Canada or Mexico. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.22 In-transit manifest.

(a) *Manifest required.* A manifest in duplicate covering the in-transit merchandise which is to proceed under the provisions of this subpart shall be presented by the carrier to the Customs officer at each port of lading of a vessel, or at the port of exit of a vehicle. Where the merchandise is transported under Customs red in-bond seals and is accompanied by a transportation in-bond manifest, a separate in-transit manifest is not required.

(b) *Additional copies.* In the following cases additional copies of the manifest shall be presented:

(1) When the merchandise is to be transshipped in foreign territory under Customs supervision, a copy of the manifest for each place of transshipment shall be presented.

(2) When a Customs officer requests an extra copy of the manifest as a record of the transaction.

(c) *Manifest forms to be used.* The in-transit manifest forms to be used are:

(1) For trucks, railroad cars or other overland carriers transiting Mexico a manifest on Customs Form 7533-B shall be presented.

(2) For vessels of less than 5 net tons departing and arriving otherwise than by sea, a manifest on Customs Form 7533-B shall be presented. All other vessels are subject to the manifesting requirements contained in § 4.82 of this chapter.

(3) For rail cars transiting Canada, a manifest on Customs Form 7533-C (Canada A4-1/2) shall be presented. For trains which will remain intact while transiting Canadian territory, a consolidated train manifest containing all the information included in the individual car manifests and the train sheet required by § 123.23 may be used in lieu of individual car manifests. For a number of cars which will transit Canada as a group, a consolidated manifest may be used, but a train sheet shall also be presented.

(4) In all other cases where no in-transit manifest form is specified in this subpart, or in Subpart E relating to truck shipments on the Canadian border, Subpart F relating to commercial traveler's samples, and Subpart G relating to baggage, Customs Form 7533-B shall be presented.

(d) *Contents of in-transit manifest.* The information contained in the manifest shall correspond to the information contained in the waybill accompanying the shipment, except that:

(1) The conveyance shall be identified in a suitable manner in the place provided for such identification.

(2) The description of ladings made up of several shipments which are to go forward in a conveyance or compartment sealed with Customs seals shall be "miscellaneous shipments."

(3) When an in-transit rail shipment will enter and reenter Canada in a continuing movement en route to a final destination in the United States, only the final United States port of reentry shall be shown on the manifest. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.23 Train sheet for in-transit rail shipments.

Before an in-transit train proceeding under the provisions of this subpart departs from the United States, the carrier shall furnish to the customs officer at the port of exit a train sheet, sometimes called a consist, bridge sheet or trip sheet, listing each car of the train and specifically identifying the in-transit cars, unless a consolidated manifest containing this information has been presented for a train which will remain intact. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.24 Sealing of conveyances or compartments.

(a) *Sealing required.* Merchandise in transit proceeding under the provisions of this subpart shall be transported in sealed conveyances or compartments, except that:

(1) Less than load or compartment lots may be forwarded in unsealed conveyances or compartments, without cording and sealing;

(2) The Commissioner of Customs may authorize treatment of full loads or lots in the same manner as less than load or compartment lots;

(3) Live animals identifiable by specific description in the manifest may be transported in the care of an attendant or customs inspector at the expense of the parties in interest, in unsealed conveyances or compartments.

(b) *Seals to be affixed.* The carrier shall affix blue in-transit seals to all openings of conveyances and compartments containing in-transit merchandise except that:

(1) Sealable carload shipments on the Canadian border shall be sealed with yellow in-transit seals.

(2) Conveyances or compartments sealed with U.S. Customs red in-bound seals may go forward without additional seals.

(c) *Carrier relieved of responsibility.* The district director of Customs may relieve the carrier of the responsibility of affixing in-transit seals by notification in writing that Customs inspectors will assume it. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1551)

§ 123.25 Certification and disposition of manifests.

(a) *Certification.* Conveyances proceeding under the provisions of this subpart shall not proceed until the Customs inspector has certified the in-transit manifest or verified its certification by the carrier. The district director may require the carrier to execute the certificate as an alternative to certification by the Customs officer. When the carrier is to execute the certificate, and the merchandise will be forwarded without being under Customs seals, the agent of the carrier shall carefully examine the packages covered by the manifests to satisfy himself that the merchandise agrees with the manifest as to quantity and description.

(b) *Disposition of manifest.* The original manifest, after certification, shall accompany the merchandise. Additional copies required when the merchandise is to be transshipped in Canada or Mexico under Customs supervision shall be given to the person in charge of the conveyance for delivery to the Customs officers who will supervise transshipment. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.26 Transshipment of merchandise moving through Canada or Mexico.

(a) *General.* Merchandise in transit proceeding under the provisions of this subpart may be transshipped from one conveyance to another in foreign territory. When transshipment requires the breaking of Customs seals, the breaking of the seals, transshipment and sealing of the conveyance or compartment to which the merchandise is transshipped shall be under the supervision of a Customs officer. He shall note his action on both the additional copy of the manifest presented to him, in accordance with § 123.25(b), and on the original copy, which shall be returned to the person in charge of the conveyance to accompany the merchandise. Merchandise transshipped in foreign territory without customs supervision when Customs seals were broken shall be treated upon return to the United States as imported merchandise.

(b) *Storage awaiting transshipment.* Merchandise moving under in-transit manifests and Customs seals which is to be stored in foreign territory awaiting transshipment shall be checked into a storehouse by the Customs officer at the place of transshipment. It shall remain under Customs locks and seals until transshipment is completed under Customs supervision.

(c) *Manifests where contents broken up.* When transshipment involves the breaking up of the in-transit contents of a conveyance or compartment, in such a manner as to require separate manifests for articles previously covered by a single manifest, the Customs officer supervising the transshipment shall take up the carrier's copy of the manifest and require the carrier to prepare a new manifest, in duplicate, for each conveyance to which the merchandise is transshipped. If there is to be further transshipment, an additional copy of each new manifest shall be presented by the carrier, and shall be returned to the person in charge of the carrier for delivery to the Customs officer at the point of further transshipment in accordance with § 123.25(b). After the transshipment and sealing of the conveyances and compartments has been supervised and the new manifests certified the originals of the new manifests shall be returned to the carrier to accompany the merchandise to the point of reentry into the United States. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.27 Feeding and watering animals in Canada.

If animals in sealed conveyances or compartments cannot be fed and watered in Canada without breaking customs seals, the seals shall be broken and the animals fed and watered under the supervision of a United States or Canadian Customs officer. The supervising officer shall reseal the conveyance or compartment, and make notation as to the resealing on the manifest. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.28 Merchandise remaining in or exported to Canada or Mexico.

(a) *In-transit status abandoned.* When the in-transit status of merchandise transiting Canada or Mexico is abandoned and the merchandise is entered for consumption or other disposition in Canada or Mexico, the carrier shall send the in-transit seals and manifests to the port where the manifests were first filed with U.S. Customs, or in the case of trucks under Subpart E, the port of exit, with an endorsement by the carrier's agent on each manifest showing that the merchandise was so entered. The carriers shall comply with the export control regulations, 15 CFR Part 370.

(b) *In-transit merchandise exported to Canada or Mexico.* Merchandise to be exported to Canada or Mexico after moving in-transit through a contiguous country shall be treated as exported when it has passed through the last port of exit from the United States. This paragraph shall control whether or not the merchandise to be exported is domestic or foreign and whether or not it is exported with benefit of drawback. The manifest, shipper's export declaration, and the notice of exportation, if any, shall be filed at the last port of exit from the United States. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.29 Procedure on arrival at port of reentry.

(a) *Presentation of documents.* At the first port in the United States after transportation through Canada or Mexico under the provisions of this subpart, the carrier shall present to Customs the in-transit manifest or manifests for each loaded conveyance. For mixed ladings, that is, ladings made up of several shipments, the waybills shall be available at the port of return or discharge for use by Customs officers. For a railroad train for which a consolidated manifest was not used the conductor shall also present a train sheet showing the car numbers and initials.

(b) *Vessels and rail shipments continuing in-transit movement*—(1) *Vessels.* In the case of a vessel carrying in-transit merchandise, the master's copies of the in-transit or in-bond manifest covering the merchandise given final Customs release at that port shall be retained by Customs at that port and the manifests covering merchandise to be discharged at subsequent ports of arrival shall be returned to the master of the vessel for presentation to Customs at the next port.

(2) *Rail shipments.* An in-transit rail shipment arriving at an intermediate port of reentry or exit intended for further in-transit movement through Canada may be permitted to go forward under the accompanying in-transit manifest after verification by Customs that the manifest satisfactorily identifies the shipment.

(c) *Checking and breaking of seals*—(1) *Checking seals.* The Customs officer at the port of arrival shall check customs seals applied to the conveyance or compartment for unlocked or missing seals. Where the seals are unlocked or missing, the merchandise shall be treated as having been imported from the transited country.

(2) *Breaking seals.* In-bond seals shall be broken only by a Customs officer or by a person acting under the direction of a Customs officer. In-transit seals may be broken by any carrier's employee, or by a consignee at any time or place after the merchandise under such seals has been released by Customs.

(d) *Proper manifest.* In-transit merchandise shall not be released until proper in-transit manifests are received except that it may be treated as imported merchandise.

(e) *Substitution of merchandise.* Any instance of substitution of merchandise shall be reported to the Commissioner of Customs, and the merchandise shall be detained. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

Subpart D—Shipments in Transit Through the United States

§ 123.31 Merchandise in transit.

(a) *From one contiguous country to another.* Merchandise may be transported in transit across the United States between Canada and Mexico under the procedures set forth in Part 18 of this chapter for merchandise entered for transportation and exportation.

(b) *From one point in a contiguous country to another through the United States.* Merchandise may be transported from point to point in Canada or in Mexico through the United States in bond in accordance with the procedures set forth in § § 18.20 to 18.24 of this chapter except where those procedures are modified by this subpart or Subparts E for trucks transiting the United States, F for commercial traveler's samples, or G for baggage. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.32 Manifests.

(a) *Form and number of copies required.* Three copies of the transportation entry and manifest on Customs Form 7512 shall be presented upon arrival of merchandise which is to proceed under the provisions of this subpart.

(b) *Consolidated train manifest.* When the route is such that a train will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on individual manifests may be used.

(c) *Disposition of manifest form.* One copy of the manifest shall be delivered to the person in charge of the carrier to accompany the conveyance and be delivered to the Customs officer at the final port of exit. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.33 Sealable rail shipments at Canadian border.

No seals other than the green in-transit seals placed on cars prior to departure from Canada shall be required for sealable carload shipments arriving at frontier ports for in-bond movement through the United States and return to Canada if:

(a) The sealing has been verified by Canadian Customs officers, and

(b) The seals are found to be properly attached and locked. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.34 Certain vehicle and vessel shipments.

In the following circumstances, the copy of Customs Form 7512 to be retained at the port of first arrival may be adapted for use as a combined inward foreign manifest and in-bond transportation or direct exportation entry:

(a) When all the merchandise arriving on one vehicle (except on trucks on the Canadian border) is to move in bond in the importing vehicle in a continuing movement through the United States; or

(b) When all the merchandise arriving on one vessel or on one vehicle (except on trucks on the Canadian border) is entered immediately upon arrival either under a single immediate transportation entry or a single transportation and exportation or direct exportation entry.

When Customs Form 7512 is to be used in this manner, the foreign port of lading and the name of the shipper shall be shown in every case, and a certificate in the following form shall be legibly stamped on the manifest or on a separate paper securely fastened thereto and executed by the master of the vessel or the person in charge of the vehicle:

> This entry correctly covers all the merchandise on the vessel or vehicle, of which I am the master or person in charge, when it first arrived in the United States. If an error in the quantity, kind of article, or other details is discovered, I will immediately report the correct information to the district director of Customs. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart E—United States and Canada In-Transit Truck Procedures

§ 123.41 Truck shipments transiting Canada.

(a) *Manifest required.* Trucks with merchandise transiting Canada from point to point in the United States will be manifested on United States-Canada Transit Manifest, Customs Form 7512-B, Canada 8 1/2. The driver shall present the manifest in four copies to U.S. Customs at the United States port of departure for review and validation.

(b) *Procedure at United States port of departure.* The Customs officer receiving the manifest shall validate it by stamping each copy in the lower right hand corner to show the port name and date and by initialing each copy. All copies of the validated manifest then will be returned to the driver for presentation to Canadian Customs at the Canadian port of entry.

(c) *Procedure at Canadian ports of arrival and exit.* Truck shipments transiting Canada shall comply with Canadian Customs regulations. These procedures generally are as follows:

(1) *Canadian port of arrival.* The driver shall present a validated United States-Canada Transit Manifest Customs Form 7512-B Canada 8 1/2, in four copies to the Canadian Customs officer, who shall review the manifest for accuracy and verify its validation by U.S. Customs. If the manifest is found not to be properly validated, the truck shall be required to be returned to the United States port of departure so that the manifest may be validated. If the manifest is validated properly and no irregularity is found, the truck will be sealed unless sealing is waived by Canadian Customs. The original manifest will be retained by Canadian Customs at the port of arrival, and the three copies will be returned to the driver for presentation to Canadian Customs at the Canadian port of exit.

(2) *Canadian port of exit.* The driver shall present the three copies of the validated manifest to the Canadian Customs officer at the Canadian port of exit for certification. That officer shall verify that the seals are intact if the vehicle has been sealed or, if sealing has been waived, that there are no irregularities. After verification and certification of the manifest, two certified copies will be returned to the driver (one to be presented to U.S. Customs at the United States port of reentry, the other for the carrier's records), and the truck will be allowed to proceed to the United States.

(d) *Procedure at the United States port of reentry.* The driver of a truck reentering the United States after transiting Canada shall present a certified copy of the United States-Canada Transit Manifest, Customs Form 7512-B, Canada 8 1/2, to the U.S. Customs officer. If this copy of the manifest does not bear the certification of a Canadian Customs officer at the Canadian port of exit, the driver will be allowed to return to that port to have it certified. The driver will be allowed to break any seals affixed by Canadian Customs upon presentation of a certified manifest. If sealing has been waived, the U.S. Customs officer shall satisfy himself that the truck contains only that merchandise covered by the manifest which moved on the truck from the United States through Canada.

(e) *Proof of exportation from Canada.* The certified copy of the manifest returned to the driver by Canadian Customs at the Canadian port of exit will serve as proof of exportation of the shipment from Canada. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554) **[TD 81-85.]**

§ 123.42 Truck shipments transiting the United States.

(a) *Manifest required.* Trucks with merchandise transiting the United States from point to point in Canada will be manifested on United States-Canada Transit Manifest, Customs Form 7512-B, Canada 8 1/2. The driver, in accordance with Canadian Customs regulations, shall present the manifest in four copies to Canadian Customs at the Canadian port of departure for review and validation.

(b) *Procedure at Canadian port of departure.* The Customs officer receiving the manifest shall validate it by stamping each copy in the lower right hand corner to show the port name and date and by initialing each copy. All copies of the validated manifest then will be returned to the driver for presentation to U.S. Customs at the United States port of entry.

(c) *Procedure at United States port of arrival—(1) Presentation of manifest.* The driver shall present a validated United States-Canada Transit Manifest, Customs Form 7512-B Canada 8 1/2, in four copies to the U.S. Customs officer, who shall review the manifest for accuracy and verify its validation by Canadian Customs. If the manifest is found not to be validated properly, the truck will be required to be returned to the Canadian port of departure so that the manifest may be validated in accordance with Canadian Customs regulations. If the manifest is validated properly and no irregularity is found the truck will be sealed unless sealing is waived by U.S. Customs. The U.S. Customs officer shall note on the manifest over his initials the seal numbers or the waiver of sealing, retain the original, and return three copies of the manifest with the related Customs Form 7512-C (duplicate) to the driver for presentation to U.S. Customs at the United States port of exit.

(2) *Sealing or waiver of sealing.* Trucks transiting the United States will be sealed with red in-bond seals at the United States port of arrival unless sealing is waived in accordance with § 18.4 of this chapter. If a truck cannot be sealed effectively and sealing is deemed necessary to protect the revenue or to prevent violation of the Customs laws or regulations, the truck will not be permitted to transit the United States under bond.

(d) *Procedure at United States port of exit.* The driver shall present the three validated copies of the manifest and the related Customs Form 7512-C (duplicate) to the U.S. Customs officer at the U.S. port of exit. The Customs officer shall check the numbers and condition of the seals and record and certify his findings on all copies of the manifest, returning two certified copies to the driver (one to be presented to Canadian Customs at the Canadian port of reentry, the other for the carrier's records), and the truck will be allowed to proceed to Canada. The check of the seals shall be made as follows:

(1) If the seals are intact, they will be left unbroken unless there is indication that the contents should be verified.

(2) If the seals have been broken, or there is other indication that the contents should be verified, all merchandise will be required to be unladen and a detailed inventory made against the waybills.

...If sealing has been waived, the Customs officer shall verify the goods against the accompanying waybills in sufficient detail to detect any irregularity.

(e) *Procedure at Canadian port of reentry.* The driver of a truck reentering Canada after transiting the United States shall present a certified copy of the United States-Canada Transit Manifest, Customs Forms 7512-B Canada 8 1/2, to the Canadian Customs officer. If this copy of the manifest does not bear the certification of a U.S. Customs officer at the United States port of exit, the driver shall be allowed to return to that port to have it certified.

(f) *Proof of exportation from United States.* The certified copy of the manifest returned to the driver by the U.S. Customs officer at the U.S. port of exit will serve as proof of exportation of the shipment from the U.S. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553) **[TD 81-85.]**

Subpart F—Commercial Traveler's Samples in Transit Through the United States or Canada

§ 123.51 Commercial samples transported by automobile through Canada between ports in the United States.

(a) *General provisions.* A commercial traveler arriving at a U.S. frontier port desiring to transport his commercial samples by automobile through Canada to another place in the United States without displaying the samples in Canada may request a U.S. Customs officer at the port of departure to cord and seal the outer containers of the samples if they can be effectively corded and sealed.

(b) *List of samples.* The traveler shall furnish the U.S. Customs officer at the port of exit a list, in duplicate, of all the articles in the containers, with their approximate values, in substantially the following form:

Samples Carried in Transit Through Canada in Private Vehicle

(U.S. port of exit printed here) (Date)

I have checked the quantity and values of the below-listed articles carried by ————————(Name and address of traveler) and owned by ————————(Name and address of firm or company)

These articles are contained in ———— (Number) packages which have been corded and sealed for in-transit movement through Canada to ———— (U.S. port of reentry) in ———— (Year, make and license number of vehicle)

(U.S. Customs Inspector)

Description of merchandise	*Value*

When the traveler arrives at Customs with lists already prepared, the form may be inscribed "as per list attached."

(c) *Checking, cording, and sealing by U.S. Customs officers.* The Customs office shall check the list with the articles and satisfy himself that the values shown are approximately correct. The Customs officer will cord and seal the containers with yellow in-transit seals. The traveler may be required to assist the Customs officer in the cording and sealing. The original of the list, signed by the Customs officer over his title and showing that the articles on the list have been checked by the officer against those in the containers shall be returned to the traveler for submission by him to Canadian customs upon his arrival in Canada.

(d) *In-transit manifest.* The traveler shall execute and file Customs Form 7533-B, in the original only, at the U.S. port of departure, as an in-transit manifest covering the movement of the samples to the U.S. port through which the traveler will return. Descriptions, quantities, and values may be shown thereon by noting "Commercial Samples" and the number of corded and sealed containers. The manifest shall be returned to the traveler to accompany the samples after being signed and dated by the Customs officer.

(e) *Presentation of in-transit manifest at U.S. port of reentry.* Upon return to the United States, the traveler shall present Customs Form 7533-B and the corded and sealed samples to the U.S. Customs officer at the port where the samples are returned to this country. The Customs officer shall verify that there has been no irregularity. (Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.52 Commercial samples transported by automobile through the United States between ports in Canada.

(a) *General provisions.* A commercial traveler arriving from Canada may be permitted to transport effectively corded and sealed samples in his automobile without further sealing in the United States, upon compliance with this section and subject to the conditions of § 18.20(b), since Customs bonded carriers as described in § 18.1 of this chapter are not considered to be reasonably available. Samples having a total value of not more than $200 may be carried by a nonresident commercial traveler through the United States without cording and sealing and without an in-transit manifest in accordance with § 148.41 of this chapter. **[TD 73-27.]**

(b) *Presentation of sample list at Canadian port of exit.* A commercial traveler arriving from Canada desiring to transport without display in the United States commercial samples in his automobile through the United States to another port in Canada, may present his samples to a Canadian Customs officer at the Canadian port of exit. The traveler will be required to furnish the Canadian Customs officer a list in duplicate of all articles presented showing their approximate values. The list shall bear the traveler's name and address, and the name and address of the firm represented.

(c) *Checking, cording, and sealing by Canadian Customs officers.* The Canadian Customs officer will examine the articles, identify them with the list, and satisfy himself that the values shown are approximately correct. The Canadian Customs officer will cord and seal the outer containers with uncolored in-transit seals and authenticate the list of samples with his signature and title. Cording and sealing may be waived with the concurrence of the United States and Canadian Customs officers.

(d) *Treatment at U.S. port of arrival.* The list of samples properly authenticated shall be submitted upon arrival to the U.S. Customs officer at the port of arrival. After ascertaining that the samples are effectively corded and sealed, or that sealing has been waived, notation of the number of corded and sealed containers, or of the waiver shall be made on the list of samples and the list shall be retained by the Customs officer as a record of the shipment.

(e) *In-transit manifest.* Movement of the samples from the port of arrival to the port of exit from the United States under this procedure shall be under an in-transit manifest on Customs Form 7520 executed and filed in triplicate by the traveler at the port of arrival in the United States. Descriptions, quantities, and values may be shown thereon by noting "Commercial Samples," the number of corded and sealed containers, and the approximate total value of the samples. When cording and sealing has been waived with the concurrence of a Canadian Customs officer, samples must be identified on the manifest by suitable itemized descriptions and approximate values, or by attaching to the manifest a copy of the list of samples which has been initialed by the Customs officer.

(f) *Presentation of samples and manifest at U.S. port of exit.* The manifest on Customs Form 7520 shall be presented to the Customs officer at the U.S. port of exit, together with the samples covered. If the seals are broken or cording and sealing has been waived, the Customs officer shall verify that there are no irregularities. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart G—Baggage

§ 123.61 Baggage arriving in baggage car.

An inward foreign manifest on customs Form 7533-A shall be used for all baggage arriving in baggage cars.

§ 123.62 Baggage in possession of traveler.

For baggage arriving in the actual possession of a traveler, his declaration shall be accepted in lieu of an inward foreign manifest. (See § 123.3.) **[TD 73-27.]**

§ 123.63 Examination of baggage from Canada or Mexico.

(a) *Opening vehicle or compartment to examine baggage.* Customs officers shall not unlock a vehicle or compartment thereof for the purpose of examining baggage unless the owner or operator refuses to unlock such vehicle or compartment.

(b) *Inspection of baggage.* Customs officers shall not open baggage for the purpose of making the inspection required by section 461, Tariff Act of 1930 (19 U.S.C. 1461), but shall detain such baggage until its owner or his agent opens or refuses to open it. If the owner or his agent refuses to open the baggage, it shall be opened and examined in accordance with the provisions of section 462, Tariff Act of 1930 (19 U.S.C. 1462), unless a request is received from the owner or his agent to make other proper disposition thereof. (Sec. 461, 462, 46 Stat. 717, 718; 19 U.S.C. 1461, 1462)

§ 123.64 Baggage in transit through the United States between ports in Canada or in Mexico.

(a) *Procedure.* Baggage in transit from point to point in Canada or Mexico through the United States may be transported in bond through the United States in accordance with the procedures set forth in § § 18.13, 18.14, and 18.20-18.24 of this chapter except where those procedures are modified by this section.

(b) *In-transit manifest.* Three copies of the manifest on Customs Form 7520 shall be required. One copy of the Form 7520 and related Customs Form 7512-C (duplicate) shall be delivered to the person in charge of the carrier to accompany the baggage and shall be delivered by the carrier to the Customs officer at the port of departure from the United States. **[TD 71-70.]**

(c) *Consolidated train manifest.* When the route is such that a train carrying baggage in bond will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on individual manifests may be used in lieu of individual manifest on Customs Form 7520.

(d) *Baggage cards*—(1) *Baggage arriving from Mexico.* For baggage arriving at a port on the Mexican border for in-transit movement through the United States in bond and return to Mexico, the in-transit baggage card described in § 18.14 of this chapter shall be used.

(2) *Baggage arriving from Canada.* For baggage arriving at a port on the Canadian border for in-transit movement through the United States in bond and return to Canada, the joint United States-Canada in-transit baggage card, Customs Form 7524, Canada A-21, shall be used. The baggage card will be filled out and securely attached to the baggage and the attachment verified by a Canadian Customs officer before the baggage leaves Canada. If the joint in-transit baggage card is found to be improperly prepared or attached upon arrival of the baggage in the United States for movement in bond, the carrier may be required to furnish the baggage card described in § 18.14 of this chapter for attachment to the baggage before being allowed to proceed. At the port of exit from the United States the joint in-transit baggage card shall be allowed to remain on the baggage. (Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.65 Domestic baggage transiting Canada or Mexico between ports in the United States.

(a) *General provision.* Upon request of the carrier, checked baggage of domestic origin may be transported from one port in the United States to another through Canada or through Mexico in accord with the procedure set forth in this section. The provisions of this section shall not apply to domestic hand baggage crossing Canada or Mexico which, upon reentry into the United States, shall be examined in the same manner as baggage of foreign origin.

(b) *Special in-transit tag manifest.* The carrier shall complete and attach to each piece of baggage by wire or cord under Customs supervision a special in-transit tag manifest furnished by the carrier as follows:

(1) *Baggage transiting Mexico.* For baggage of domestic origin to be transported through Mexico between ports of the United States, the special in-transit tag manifest attached to each piece of baggage shall be on white cardboard not less than 2 1/2 × 4 1/2 inches in size printed in substantially the following form:

United States Customs

in-transit baggage manifest

Carrier's Baggageman: Destroy this tag if owner has access to baggage before its return to United States.

Check No. ———.

This baggage is in transit from ———————————— (Port of exit) through foreign territory to ———————————— (Port of reentry) in the United States.

This baggage was laden for transportation as above stated.

Date ——————

_____________________________—

(U.S. Customs Officer)

(2) *Baggage transiting Canada.* For baggage of domestic origin to be transported through Canada between ports in the United States, the joint United States-Canada in-transit baggage card, Customs Form 7524, Canada A-21, shall be used as the special in-transit tag manifest attached to each piece of baggage.

(c) *Removal of special in-transit tag manifest.* The special in-transit tag manifest shall be removed only by the Customs officers at the final port of reentry into the United States. If the officer finds the special in-transit tag manifest missing or not intact, or for any other reason believes that the baggage has been tampered with while outside the United States, he shall detain it for examination. Otherwise, baggage transported under the procedure in this section may be passed without examination.

(d) *Procedure in lieu of special in-transit tag manifest.* In lieu of attaching the special in-transit tag manifest to each piece of baggage as set forth in paragraph (b) of this section, baggage of domestic origin may be forwarded in a car or compartment sealed with in-transit seals and manifested as in the case of other merchandise in transit through Canada or Mexico, as provided in Subpart C of this part.

Subpart H—Miscellaneous Provisions

§ 123.71 Merchandise found in building on the boundary.

When any merchandise on which the duty has not been paid or which was imported contrary to law is found in any building upon or within 10 feet of the boundary line between the United States and Canada or Mexico, such merchandise shall be seized and a report of the facts shall be made to the Commissioner. With his approval the building or that portion thereof which is within the United States shall be taken down or removed. The provisions of Subpart B of Part 162, of this chapter shall be applicable to the search of any such building. (Sec. 595, 46 Stat. 752; 19 U.S.C. 1595) **[TD 72-211.]**

§ 123.72 Treatment of stolen vehicles returned from Mexico.

District directors shall admit without entry and payment of duty allegedly stolen or embezzled vehicles, trailers, airplanes, or component parts of any of them, under the provision of Executive Order 7965, dated August 29, 1938 (T.D. 49851), if accompanied by a letter from the U.S. Embassy in Mexico City containing:

(a) A statement that the Embassy is satisfied from information furnished it that the property is stolen property being returned to the United States under the provisions of the convention between the United States and Mexico concluded October 6, 1936, and

(b) An adequate description of the property for identification purposes.

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

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125.42 Cancellation of liability.

Authority.—R.S. 251, as amended, secs. 565, 624, 46 Stat. 747, as amended, 759; 19 U.S.C. 66, 1565, 1624. Additional authority and statutes interpreted or applied are cited in parentheses following the sections affected.

Source: T.D. 73—140, 38 FR 13554, May 23, 1973, unless otherwise noted.

§ 125.0 Scope.

This part is concerned with cartage and lighterage of merchandise and the duties and liabilities of cartmen and lightermen. Provisions for licensing cartmen and lightermen are in Part 112 of this chapter. **[TD 78-140]**

Subpart A—General Provisions

§ 125.1 Classes of cartage.

(a) *Government cartage*. Government cartage must be done by a licensed customhouse cartman under contract or other specific authority for that purpose (except as provided for in § 125.12).

(b) *Importers' cartage*. Importers' cartage may be done by any licensed customhouse cartman.

§ 125.2 Supervision of cartage and lighterage.

All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise being carried.

§ 125.3 Contracts for Government cartage.

Contracts for Government cartage shall be procured by formally advertised solicitation for bids and award of contract or by negotiation in accordance with the appropriate provisions of the Federal Procurement Regulations, as supplemented by the special procurement requirements of the U.S. Customs Service.

Subpart B—Cartage of Packages for Examination

§ 125.11 Cartage for examination in public stores.

(a) *Government cartage*. The cartage of merchandise in Customs custody designated for examination at the public stores shall be done by a licensed customhouse cartman under contract or other specific authority for that purpose.

(b) *Where there is no contract for Government cartage*. At ports where there is no contract for Government cartage in effect, the cartage of packages designated for examination at the public stores shall be done by a licensed customhouse cartman designated by the district director for this purpose.

(c) *Payment for Government cartmen*. The cost of the cartage shall be paid from the appropriation "Salaries and Expenses; Bureau of Customs."

§ 125.12 Cartage for examination at importers' premises or other place.

Merchandise designated for examination at an importer's premises or other place not in the charge of a Customs officer may be carted, lightered, or carried to any such place by the importer without a cartman's or lighterman's license, when in the judgment of the district director the revenue will not be endangered. Otherwise, such transfer shall be done by a licensed cartman, who shall be the contract cartman whenever practicable.

§ 125.13 Cartage of merchandise withdrawn from general order for regular entry.

When merchandise withdrawn from general order for regular entry is to be conveyed to a place designated by the district director for examination, the cartage shall be at the expense of the importer and shall be under the cartage arangements established at the port for hauling examination packages under the provisions of § 125.11(a) and (b). Reimbursement of the cost of the cartage shall be collected from the importer prior to release of the merchandise from Customs custody.

§ 125.14 Cartage of unclaimed merchandise.

Unclaimed merchandise shall be carted to the public stores or a bonded warehouse designated by the district director under the cartage arrangements established at the port for hauling examination packages under the provisions of § 125.11. Reimbursement of the cost of the cartage shall be collected from the importer prior to release if entry is made or from the proceeds of sale of the merchandise. **[TD 78-151.]**

Subpart C—Importers' Cartage

§ 125.21 Cartage other than for examination.

Any licensed customhouse cartman, including an importer licensed to cart his own imported merchandise, at the expense of the importer or other party in interest, may transfer merchandise from the importing vessel or other conveyance to bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to a bonded warehouse, from warehouse for transportation or for exportation, and from an internal revenue warehouse for exportation under the internal revenue laws without payment of tax. Nothing in this section shall apply to the cartage of examination packages to the place of examination.

§ 125.22 Designation of cartman or lighterman.

Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman or lighterman by whom they wish their merchandise to be conveyed. Approval of such designation shall be indicated on the entry papers by the initials of the appropriate Customs officer placed in close proximity to the designation.

§ 125.23 Failure to designate.

If an importer does not cart his merchandise or designate a licensed customhouse cartman for the purpose, it shall be carted by a public store cartman authorized by contract or designated by the district director for that purpose. The cost of such cartage shall be paid by the importer or owner of the merchandise before its release from Customs custody.

§ 125.24 Failure of designated cartman or lighterman to appear.

The cartman or lighterman designated to convey the merchandise shall be present to take the merchandise when the Customs officer in charge is ready to send it. If the designated vehicle or lighter is not present, after waiting a reasonable time, such officer shall send the merchandise by any licensed cartman or lighterman available.

Subpart D—Delivery and Receipt

§ 125.31 Documents used.

When merchandise is carted or lightered to and received from a bonded store or bonded warehouse, it shall be accompanied by one of the following tickets or documents:

(a) Customs Form 6043—Delivery Ticket.

(b) Customs Form 7502-A—Warehouse or Rewarehouse Entry (Permit).

(c) Customs Form 7505-A—Warehouse Withdrawal for Consumption (Permit).

(d) Customs Form 7505-B—Order to Release Merchandise on Order of the Warehouse Proprietor.

(e) Customs Form 7506—Warehouse Withdrawal Conditionally Free of Duty, and Permit.

(f) Customs Form 7512—Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

§ 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representative shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of warehouse or rewarehouse permit, Customs Form 7502-A, and countersign the document acknowledging receipt of the merchandise as listed thereon.

§ 125.33 Procedure on receiving merchandise.

(a) *From public or bonded store.* A receipt shall be taken from the cartman or lighterman for all goods delivered to him from public store or bonded store. The receipt may be taken on Customs Form 6043, or on the appraising officer's release ticket at the time delivery is made.

(b) *From bonded warehouse.* In case of withdrawals from bonded warehouse for consumption, the merchandise shall be released only to or upon the order of the proprietor of the warehouse, who shall acknowledge such release on Customs Form 7505-A or 7505-B.

(c) *All other cases.* A receipt shall be taken for all goods delivered from Customs custody in any other case where the district director deems such receipt necessary.

§ 125.34 Countersigning of documents and notation of bad order or discrepancy.

When a cartman or lighterman receives merchandise remaining in Customs custody, he shall countersign the appropriate document in the space provided and shall note thereon any bad order or discrepancy. When available, the importing carrier's tally slip for the merchandise shall be attached to the delivery ticket which accompanies the merchandise while it is being carted or lightered in bond, for the use of Customs officers only at destination.

§ 125.35 Report of loss, detention, or accident.

Any loss or detention of bonded merchandise, or any accident happening to a licensed vehicle or lighter while carrying bonded merchandise shall be immediately reported by the cartman or lighterman to the district director.

§ 125.36 Inability to deliver merchandise.

If the warehouse is closed or the warehouseman refuses to receive the merchandise, the cartman shall notify the appropriate Customs inspector. The inspector shall promptly report the facts to the district director or his delegated representative for instructions. The merchandise shall then be returned to the Customs inspector, deposited in the public stores for safekeeping, or handled as ordered by the district director.

Subpart E—Liability

§ 125.41 Liability of cartman or lighterman.

The cartman or lighterman conveying the merchandise, including merchandise covered by a TIR carnet which has not been "taken on charge" (see § 114.22(c)(2) of this chapter), shall be liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the delivery ticket, if damage is so noted. (Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

§ 125.42 Cancellation of liability.

The district director may cancel liquidated damages not in excess of $50,000 incurred under a cartman's bond or lighterman's bond upon the payment of such lesser amount, or without the payment of any amount, as he may deem appropriate under the circumstances. Application for cancellation of liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter. (Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623) **[TD 73-308.]**

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

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Authority: R.S. 251, as amended, section 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624. Other statutory provisions interpreted or applied and additional authority are cited in the text or in parentheses following the sections affected.

Source: 39 FR 12092, Apr. 3, 1974, unless otherwise noted.

§ 127.0 Scope.

This part sets forth regulations pertaining to general order merchandise, unclaimed merchandise, and abandoned merchandise, the storage and sale thereof, and the distribution of the proceeds from the sale thereof. Regulations regarding the abandonment of merchandise by the importer to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506(1)), appear in Part 158 of this chapter. **[TD 74-114.]**

Subpart A—General Order Merchandise

§ 127.1 Merchandise considered general order merchandise.

Merchandise shall be considered general order merchandise when it is taken into the custody of the district director and deposited in the public stores or a general order warehouse at the risk and expense of the consignee for any of the following reasons:

(a) Whenever entry of any imported merchandise is not made within the time provided by law or regulations prescribed by the Secretary of the Treasury.

(b) Whenever entry is incomplete because of failure to pay estimated duties.

(c) Whenever, in the opinion of the district director, entry cannot be made for want of proper documents or other causes.

(d) Whenever the district director believes that any merchandise is not correctly or legally invoiced.

(e) Whenever, at the request of the consignee or the owner or master of the vessel or person in charge of the vehicle in which merchandise is imported, any merchandise is taken possession of by the district director after the expiration of 1 day after entry of the vessel or report of the vehicle. (Sec. 490, 46 Stat. 726, as amended; 19 U.S.C. 1490)

§ 127.2 Withdrawal from general order for entry or exportation.

(a) *Exportation within 1 year from date of importation.* Merchandise in general order may be exported without examination or appraisement if the merchandise is delivered to the exporting carrier within 1 year from the date of importation. This merchandise may be entered within 1 year from date of importation for immediate transportation to any port of entry designated by the consignee.

(b) *After expiration of 1 year from date of importation.* Entry for immediate transportation shall be permitted after the expiration of the 1-year period only for the purpose of filing an entry for consumption at the port of destination.

(c) *Withdrawal of less than single general order lot.* The withdrawal from general order of less than a single general order lot shall not be permitted except as provided for in § 141.52 of this chapter. (Sec. 490, 46 Stat. 726, as amended; (19 U.S.C. 1490))

§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in Section 127.1, is not subject to sale. The general order period expires 1 year from the date of importation. **[TDs 75-161, 79-221.]**

Subpart B—Unclaimed and Abandoned Merchandise

127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which remains in Customs custody for 1 year from the date of importation, or a lesser period for special merchandise as provided by sections 127.28 (c), (d), and (h), and without all estimated duties and storage and other charges having been paid, shall be considered unclaimed and abandoned. (Sec. 491, 46 Stat. 726, as amended; (19 U.S.C. 1491).) **[TD 79-221.]**

§ 127.12 Abandoned merchandise.

(a) *Involuntarily abandoned merchandise.* The following shall be considered to be involuntarily abandoned merchandise:

(1) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which are still in Customs custody at the expiration of 3 months after the closing date of the fair for which they were entered. (See § 147.47 of this chapter.)

(2) Any imported merchandise upon which any duties or charges are unpaid, remaining in a bonded warehouse beyond the 5-year warehouse period. **[TD 79-221.]**

(b) *Voluntarily abandoned merchandise.* The following merchandise shall be considered to be voluntarily abandoned merchandise and the property of the United States Government:

(1) Merchandise which is taken possession of by the district director at the request of the consignee, or owner or master of the vessel or person in charge of the vehicle in which the merchandise was imported.

(2) Merchandise abandoned by the importer to the United States within 30 days after entry in the case of merchandise not sent to the public stores for examination, or within 30 days after the release of the examination packages or merchandise in the case of merchandise sent to the public stores for examination.

(3) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which have been abandoned to the United States within 3 months of the closing of the fair.

(4) Merchandise in a bonded warehouse abandoned by the consignee within 3 years from the date of original importation. (See subpart D of Part 158 of this chapter.) (Secs. 490, 506, 559, 563, 46 Stat. 726, as amended, 732, as amended, 744, as amended, 746, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1490, 1506, 1559, 1563, 1753))

§ 127.13 Storage of unclaimed and abandoned merchandise.

(a) *Place of storage.* Unclaimed and abandoned merchandise shall be sent under a permit to a class 1 warehouse (public store) or to a suitable warehouse of class 3, 4, or 5 specially designated for the purpose by the district director. If no warehouse of these classes is available, the district director may, with the approval of the Commissioner of Customs, rent suitable premises in a class 2 warehouse. (For permit to discharge unclaimed cargo which is not unladen see § 4.37(f) of this chapter.)

(b) *Payment of storage and expenses.* Storage at the ordinary rates and all other expenses shall be paid by the owner or consignee of the merchandise upon entry thereof. If the goods are sold, such charges shall be paid from the proceeds of the sale to the extent that proceeds are available. (Sec. 490, 46 Stat. 726, as amended (19 U.S.C. 1490))

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale.* If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period, as defined in § 127.4, in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in subpart C of this part unless entered or withdrawn for consumption in accordance with paragraph (b) of this section. **[TD 75-161.]**

(b) *Entry of merchandise subject to sale.* Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b))), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor.* The following merchandise for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid which remains in bonded warehouse beyond the 5-year warehouse period. **[TD 79-221.]**

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period. (Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

Subpart C—Sale of Unclaimed and Abandoned Merchandise

§ 127.21 Time of sale.

All unclaimed and abandoned merchandise shall be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the Commissioner of Customs. Regular sales shall be made once every year or more often at the discretion of the district director. (Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753)

§ 127.22 Place of sale.

All merchandise at a port other than a headquarters port which becomes subject to sale, including explosives, perishable articles and articles liable to depreciation, shall be promptly reported to the headquarters port for disposition. The district director, in his discretion, may sell such merchandise as well as merchandise at the headquarters port which is subject to sale, at the headquarters port or any other port within the district. (Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1559, 1753))

§ 127.23 Appraisement of merchandise.

Before unclaimed and abandoned merchandise is offered for sale, it shall be appraised in accordance with sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot shall be reported. (Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.24 Notice of sale.

Notice of sale shall be sent to Customs Form 5251, 30 days prior to the date of sale, or 30 days prior to the transfer of merchandise to the place of sale, to the following:

(a) Importer, if known; or

(b) Consignee, if name and address can be ascertained; or

(c) Shipper, his representative or agent, if merchandise is consigned to order or consignee cannot be ascertained; or

(d) Warehouse transferee; or

(e) Lienholder. (Secs. 491, 559, 46 Stat. 726, as amended 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.25 Advertisement of sale.

(a) *Regular advertising.* Except as prescribed in sections 127.28(c), (d), and (h), and in paragraph (b) of this section, a brief notice of the time and place of sale shall be given for three successive weeks, immediately preceding the sale, in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper is to be selected by the district director and publication of the notice shall be authorized on the standard form provided for that purpose. The notice shall designate the place where catalogs may be obtained and a reasonable opportunity to inspect the merchandise shall be afforded prospective purchasers.

(b) *Where proceeds are insufficient to pay expenses and duties.* If the district director is satisfied that the proceeds of the sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time specified in paragraph (a) of this section. (Secs. 491, 559, 46 Stat. 726, as amended 744, as amended; (19 U.S.C. 1491, 1559)

§ 127.26 Catalogs.

Catalogs, if used shall specify the description of packages, the description and quantities of their contents, the appraised value thereof, and also the domestic value at the time and place of the examination of the merchandise. They shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale. (Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.27 Conduct of sale.

Sales may be conducted by the district director, any employee designated by him or by a public auctioneer. (Secs, 491, 559, 46 Stat. 726, as amended 744, as amended; (19 U.S.C. 1491, 1559))

§ 127.28 Special merchandise.

(a) *Drugs, seeds, plants, nursery stock, and other articles required to be inspected by Department of Agriculture.* Before drugs, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be immediately destroyed.

(b) *Pesticides and devices.* Pesticides and devices intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life (other than man or other than bacteria, virus, or other microorganism on or in living man or other living animals) shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with the requirements of the law and regulations of that agency. If found not to comply with such requirements, they shall be immediately destroyed.

(c) *Explosives, dangerous articles, fruit, and perishables.* Unclaimed explosives and other dangerous articles, and fruit and other perishable articles shall be sold after 3-days' public notice. When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the district director may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available.

(d) *Articles liable to depreciation.* Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 or more than 10 days, as the district director may determine, if in his opinion such merchandise will depreciate and sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 1 year.

(e) *Tobacco and tobacco products.* Tobacco articles and tobacco materials as defined in 26 U.S.C. 5702(j) and (k), may be sold for domestic consumption only if they will bring an amount sufficient to pay the expenses of sale as well as the internal revenue tax. If these articles cannot be sold for domestic consumption in accordance with the foregoing conditions, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(f) *Distilled spirits, wines, and malt beverages.* All unclaimed and abandoned distilled spirits, wines, and malt beverages may be sold for domestic consumption if they will bring an amount sufficient to pay the internal revenue tax. If they cannot be sold for domestic consumption in accordance with the foregoing condition, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. The sale must be conducted in accordance with the alcoholic beverage laws of the state in which the sale is held.

(g) *Other merchandise subject to internal revenue taxes.* All other unclaimed and abandoned merchandise subject to internal revenue taxes may be sold for domestic consumption if it will bring an amount sufficient to pay the internal revenue tax. If, in the opinion of the district director, it is insufficient in value to justify its sale, the merchandise shall be destroyed, unless it can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(h) *Unclaimed merchandise remaining on dock.* Unclaimed merchandise remaining on the dock which, in the opinion of the district director, will not sell for enough to pay the cost of cartage and storage shall be sold at public auction upon public notice of not less than 6 or more than 10 days. (Secs. 491, 492, 46 Stat. 726, as amended, 727, as amended, sec. 201, 72 Stat. 1412, 68A Stat. 716, as amended, 86 Stat. 995; (19 U.S.C. 1491, 1942, 26 U.S.C. 5688, 5753))

§ 127.29 Unsold merchandise.

Merchandise offered for sale but not sold shall be included in the next regular sale of unclaimed and abandoned merchandise. If the district director is satisfied that such merchandise is unsalable or of no commercial value, it shall be destroyed. (Secs. 491, 559, 46 Stat. 726, as amended, 744, as amended; (19 U.S.C. 1491, 1559))

Subpart D—Proceeds of Sale

§ 127.31 Disposition of proceeds.

From the proceeds of sale of merchandise remaining in public stores or in bonded warehouse beyond the time fixed by law, the following charges shall be paid in the order named:

(a) Internal revenue taxes.

(b) Expenses of advertising and sale.

(c) Expenses of cartage, storage and labor. When the proceeds are insufficient to pay such charges fully, they shall be paid pro rata. (For merchandise entered for warehousing, see § 127.32 of this subpart.)

(d) Duties.

(e) Any other charges due the United States in connection with the merchandise.

(f) Any sum due to satisfy a lien for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law. (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18; (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.32 Expenses of cartage, storage, and labor.

The expenses of cartage, storage, and labor for merchandise entered for warehousing shall be paid in the following order:

(a) When such merchandise was warehoused in public stores, expenses of storage and labor shall be paid after expenses of sale (pro-rated when proceeds are insufficient to pay them fully) and any cartage charges shall be paid last.

(b) When such merchandise was warehoused in a bonded warehouse, expenses of storage, cartage, and labor shall be paid last (pro-rated when proceeds are insufficient to pay them fully). (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.33 Chargeable duties.

The duties chargeable on any merchandise within the purview of this subpart shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale. Household and personal effects of the character provided for in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), which belong to persons who have not arrived in this country before the effects become subject to sale, are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold. (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.34 Auctioneer's commissions.

The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be based on the amount of the successful bid. (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.35 Presentation of accounts.

Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the district director for payment within 10 days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for different lots sold. (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended; (19 U.S.C. 1491, 1493, 1559))

§ 127.36 Claim for surplus proceeds of sale.

(a) *Filing of claim.* Claims for the surplus proceeds of the sale of unclaimed or abandoned merchandise shall be filed with the district director at whose direction the merchandise was sold. The following shall be used in filing a claim:

(1) *Unclaimed merchandise.* Claims for surplus proceeds of the sale of unclaimed merchandise which has become abandoned and sold under section 491 of the Tariff Act of 1930, as amended (19 U.S.C. 1491), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(2) *Involuntarily abandoned merchandise*— (i) *Warehouse goods deemed abandoned.* Claims for surplus proceeds of sale of warehouse goods deemed involuntarily abandoned sold under section 559 of the Tariff Act of 1930, as amended (19 U.S.C. 1559), shall be established by reference to the warehouse entry, or, if the right to withdraw the merchandise from warehouse has been transferred, by reference to the documents by which the transfer was made.

(ii) *Trade fair articles deemed abandoned.* Claims for surplus proceeds of sale of trade fair articles deemed involuntarily (mandatorily) abandoned under section 4 of the Trade Fair Act of 1959 (19 U.S.C. 1753(c)), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic copy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading. (See § 147.47 of this chapter.)

(b) *Payment of claim.* If a claim of the owner or consignee of unclaimed or abandoned merchandise for the surplus proceeds of sale is properly established as provided in this section, such proceeds of sale shall be paid to him pursuant to section 493 of the Tariff Act of 1930, as amended (19 U.S.C. 1493).

(c) *Doubtful claims.* Any doubtful claims for the proceeds of sale along with all pertinent documents and information available to the district director shall be forwarded to the Commissioner of Customs for instructions or for referral to the General Accounting Office for direct settlement. (Secs. 491, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18 (19 U.S.C. 1491, 1493, 1559, 1753))

§ 127.37 Insufficient proceeds.

(a) *Warehouse merchandise deemed involuntarily abandoned.* If the proceeds of sale of warehouse merchandise deemed involuntarily abandoned are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the warehouse entry bond.

(b) *Unclaimed merchandise and trade fair articles involuntarily abandoned.* If the proceeds of sale of unclaimed merchandise or trade fair articles involuntarily abandoned are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed, and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee. (Secs. 491, 492, 493, 559, 46 Stat. 726, as amended, 727, as amended, 744, as amended, sec. 4, 73 Stat. 18 (19 U.S.C. 1491, 1492, 1493, 1559, 1753))

PART 132—QUOTAS

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0040

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (Gen. Headnote 11), and 1624.

0040

Source: T.D. 73-203, 38 FR 20230, July 30, 1973, unless otherwise noted.

§ 132.0 Scope.

This part sets forth rules and procedures applicable to quotas administered by Headquarters, U.S. Customs Service. **[TD 73-203.]**

Subpart A—General Provisions

§ 132.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Absolute (or quantitative) quotas.* "Absolute (or quantitative) quotas" are those which permit a limited number of units of specified merchandise to be entered or withdrawn for consumption during specified periods. Once the quantity permitted under the quota is filled, no further entries or withdrawals for consumption of merchandise subject to quota are permitted. Some absolute quotas limit the entry or withdrawal of merchandise from particular countries (geographic quotas) while others are global quotas and limit the entry or withdrawal of merchandise not by source but by total quantity.

(b) *Tariff-rate quotas.* "Tariff-rate quotas" permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced duty rate during a specified period.

(d) *Presentation.* Presentation is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see sec. 141.0a(b)), or

(2) A withdrawal for consumption, with estimated duties attached.

(e) *Quota-class merchandise.* "Quota-class merchandise" is any imported merchandise subject to limitations under an absolute or a tariff-rate quota.

(f) *Quota priority.* "Quota priority" is the precedence granted to one entry or withdrawal for consumption of quota-class merchandise over other entries or withdrawals of merchandise subject to the same quota.

(g) *Quota status.* "Quota status" is the standing which entitles quota-class merchandise to admission under an absolute quota, or to a reduced rate of duty under a tariff-rate quota, or to any other quota benefit.

§ 132.2 Enactment and administration of quotas.

(a) *Enactment.* Tariff-rate quotas and absolute quotas are established by Presidential proclamations, Executive orders, and legislative enactments. These documents are published in the Customs Bulletin.

(b) *Administration.* Quotas vary by the type of commodity involved, the country of exportation, the period or periods the quota is open and the type of quota. Quotas are divided into two categories: Quotas administered directly by Headquarters, U.S. Customs Service, and quotas administered by other agencies which are enforced by Headquarters, U.S. Customs Service, and which may require special procedures or special documentation in accordance with the regulations and directives of the particular agency involved.

(c) *Strict construction employed.* The terms of a Presidential proclamation, Executive order, or legislative enactment establishing a quota, and the regulations implementing the quota, must be strictly complied with.

§ 132.3 Observation of official hours.

An entry summary for consumption or a withdrawal for consumption for quota-class merchandise shall be presented only during official office hours, except as provided in sections 132.12 and 141.62(b) of this chapter. For purposes of administering quotas, "official office hours" shall mean 8:30 a.m. to 4:30 p.m. in all time zones. **[TD 79-221.]**

§ 132.4 Quota quantity entry limits.

At the opening of the quota no importer shall be permitted to present entries or withdrawals for consumption of quota-class merchandise for a quantity in excess of the quantity admissible under the applicable quota.

§ 132.5 Merchandise imported in excess of quota quantities.

(a) *Absolute quota merchandise.* Absolute quota merchandise imported in excess of the quantity admissible under the applicable quota must be disposed of in accordance with paragraph (c) of this section.

(b) *Tariff-rate quota merchandise.* Merchandise imported in excess of the quantity admissible at the reduced quota rate under a tariff-rate quota is permitted entry at the higher duty rate. However, it may be disposed of in accordance with paragraph (c) of this section.

(c) *Disposition of excess merchandise.* Merchandise imported in excess of either an absolute or a tariff-rate quota may be held for the opening of the next quota period by placing it in a foreign-trade zone or by entering it for warehouse, or it may be exported or destroyed under Customs supervision.

§ 132.6 Exception to reduced rates.

Reduced or modified duty rates under tariff-rate quotas established pursuant to section 350 of the Tariff Act of 1930, as amended and extended (19 U.S.C. 1351), are not applicable to products imported directly or indirectly from the countries or areas listed under General Headnote 3(e), Tariff Schedules of the United States, as amended (19 U.S.C. 1202).

Subpart B—Administration of Quotas

§ 132.11 Quota priority and status.

(a) *Determination of quota priority and status.*—Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with section 132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption which serves as both the entry and the entry summary, or by a withdrawal for consumption, which is not in proper form, or for which duties have not been attached or deposited in proper form, shall not be regarded as entered for purposes of quota priority and shall not acquire quota status. See sections 141.4, 141.63, 141.68, 141.69, and 141.101 of this chapter. **[TD 79-221.]**

(c) *Informal entries.* Mail entries or informal entries shall be regarded as presented for purposes of quota priority when all requirements have been met for the preparation of such an entry.

(d) *Premature presentation of entry or withdrawal.* Quota status will not attach to merchandise in a quota period by reason of the presentation of an entry or withdrawal for consumption at any time prior to the opening of that period.

§ 132.11a Time of presentation.

(a) *General Rule.*—Except as provided in paragraph (b) of this section, the time of presentation of an entry for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or

(2) A withdrawal for consumption, with estimated duties attached.

(b) *Before arrival of merchandise.*—The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits. **[TD 79-221.]**

§ 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.*—When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon eastern standard time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the district director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.*—Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the deposit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.*—The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by headquarters against the quota quantity admissible to determine the percentage to be allocated to each importer under the quota. Merchandise in excess of the quota shall be disposed of in accordance with section 132.5.

(2) In the event a quota is prorated, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall be returned to the importer for adjustment. The time of presentation for quota purposes, in that event, shall be the exact moment of the opening of the quota provided—

(i) An adjusted entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is deposited within 5 working days after headquarters authorizes release of the merchandise, and

(ii) The importer takes delivery of the merchandise within 15 working days after release is authorized. **[TD 79-221.]**

§ 132.13 Quotas after opening.

(a) *Procedure when nearing fulfillment.*—To secure for each importer the rightful quota priority and status for his quota-class merchandise, and to close the quota simultaneously at all ports of entry—

(1) *For release of merchandise.*

(i) *Tariff-rate.*—When instructed by headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate of duty until headquarters has determined the quantity, if any, of the merchandise entitled to the quota rate. If any of the merchandise entered at the over-quota rate is entitled to the quota rate, Customs shall amend the entry summary and refund to the importer any excess duties paid. This section does not prohibit an importer from obtaining release of the merchandise under the immediate delivery procedure. If an importer desires to enter only that quantity entitled to the quota rate, he may request that the merchandise not be released from Customs custody until headquarters has determined the quantity entitled to the quota rate.

(ii) *Absolute.*—Except as provided for in § 142.21 (e)(2) and (g) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure.

An entry summary for consumption, with estimated duties attached, setting forth the quantity desired to be entered, shall be presented. However, the merchandise shall not be released until Customs has determined the quantity entitled to absolute quota status and priority.

(iii) *Quota Proration.*When it is determined that entry summaries for consumption or withdrawals for consumption must be amended to permit only the quantity of tariff-rate and absolute quota merchandise determined to be within the quota, the entry summaries for consumption or withdrawals for consumption must be returned to the importer for adjustment. The time of presentation for quota purposes in that event shall be the same as the time of the initial presentation of the entry summaries for consumption or withdrawals for consumption provided—

(A) An adjusted entry summary for consumption, or withdrawals for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(B) The importer takes delivery of the merchandise within 15 working days after release is authorized. **[TD 81-260.]**

(2) *Notation on entry papers.*—The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters. **[TD 79-221.]**

(b) *Closing of the quota.* Except as provided by § 132.12, at the closing of a quota all entries or withdrawals for consumption which have acquired quota status due to priority of presentation shall be entitled to quota benefits. All other entries or withdrawals are without quota status and are not entitled to any quota benefits. All the latter shall be disposed of in accordance with § 132.5.

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery or filing entry documentation before presentation of entry summary.*

(1) *Requirements for release.*—Quota-class merchandise shall not be released upon filing entry documentation before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with section 142.21(e) of this chapter.

(2) *Effect of release under immediate delivery.*—Release of quota-class merchandise under a special permit for immediate delivery before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord merchandise any quota priority or status or entitle it to any other quota benefit.

(3) *Effect of inadvertent release.*—Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(4) *Procedures following inadvertent release.*

(i) *Quota nearing fulfillment.*—If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is nearing fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with section 141.113 of this chapter,

(B) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached, and

(C) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (1) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (2) the merchandise is not returned to Customs custody within 30 days from the date of demand for redelivery; or (3) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely.

(D) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for the release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the merchandise is redelivered to Customs custody within 30 days from the date of the demand, or if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(ii) *Quota not nearing fulfillment.*—If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is not nearing fulfillment, the district director—

(A) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and

(B) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (1) released before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached; or (2) if the entry summary for consumption, or the withdrawal for consumption with estimated duties attached, is not presented timely.

(C) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that the release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(b) *Permit of delivery.*—(1) *Effect of filing.*—The issuance of a permit of delivery shall not accord the merchandise any quota priority or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.*—A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate quota merchandise.*—A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty. **[TD 79-221.]**

§ 132.15 Withdrawal from warehouse prior to opening of quota.

Merchandise entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(c) of this chapter prior to the opening of any quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the permit of delivery for the withdrawn merchandise is not delivered to the Customs warehouse officer until after the effective date of the quota benefit. **[TD 79-221.]**

Subpart C—Mail Importation of Absolute Quota Merchandise

§ 132.21 Regulations applicable.

In addition to the regulations applicable to all mail importations (see Part 145 of this chapter), the regulations in this subpart shall apply to mail importations of absolute quota merchandise.

§ 132.22 When quota is filled.

Any packages containing merchandise subject to an absolute quota which is filled shall be returned to the postmaster for return to the sender immediately as undeliverable mail. The addressee will be notified on Customs Form 3509 or in any other appropriate manner that entry has been denied because the quota is filled.

§ 132.23 Partial release procedure.

(a) *Notification of quota restrictions.* If because of quota restrictions, a mail importation cannot be released, the district director at the port of destination shall notify the addressee on Customs Form 3509 of the procedure required by paragraph (b) of this section, and shall inform the addressee that upon return of the Acknowledgement of Delivery by Postal Service, the packages admissible under the absolute quota will be forwarded to him and the restricted packages will be returned to the sender as inadmissible. The district director may at his discretion hold packages if it appears that the absolute quota will reopen in less than 30 days.

(b) *Acknowledgement of delivery.* An Acknowledgement of Delivery by Postal Service shall be sent to the addressee. He shall be advised that if he desires to secure release of less than the total number of packages of the merchandise, the Acknowledgement of Delivery by Postal Service must be signed by him and returned to the district director. Such Acknowledgment of Delivery by Postal Service shall be in the following form:

Acknowledgment of Delivery by Postal Service

In consideration of the fact that certain articles in a mail importation consisting of ———————————— (state number) packages mailed to me by ———————————————— (name of sender) of ——————————————— (address) on —————————— (date of mailing), are subject to quota restrictions under which only a portion of such articles may be admitted to entry at one time, and the Postal Service permits no division of the importation before delivery thereof, and since I am desirous of receiving the packages of such importation which are admissible to entry under the quota administered by the United States Customs, I hereby agree and acknowledge that delivery of the package or packages to the United States Customs shall be regarded as delivery by the Postal Service to me.

(Signature of addressee)

(c) *Agreement to less than full delivery.* If, in any case, the sender of a mail package has indicated his agreement to the delivery of less than the entire importation at one time, an Acknowledgment of Delivery by Postal Service need not be secured from the addressee.

(d) *Deposit required.* If a portion of a mail shipment may be released, the district director may require a deposit of an amount sufficient to defray the expenses of repacking merchandise for shipment by mail to the addressee. The shipment shall be under Government frank without new postage.

§ 132.24 Entry.

Unless a formal entry or entry by appraisement is required, a mail entry on Customs Form 3419 shall be issued and forwarded with the package to the postmaster for delivery to the addressee and collection of any duties in the same manner as for any other mail package subject to Customs treatment.

§ 132.25 Undeliverable shipment.

If within a reasonable time, but not to exceed 30 days, the addressee fails to indicate to the district director an intention to receive delivery of the packages or a portion thereof in accordance with the notice on Customs Form 3509 which was sent to him by the district director, the importation shall be treated in the same manner as other undeliverable mail.

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

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Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart D also issued under sec. 109, 61 Stat. 664; 17 U.S.C. 109, unless otherwise noted.

Source: T.D-266, 37 FR 20678, Oct. 3, 1972, unless otherwise noted.

§ 133.0 Scope.

This part provides for the recordation of trademarks, trade names, and copyrights with the United States Customs Service for the purpose of prohibiting the importation of certain articles. It also sets forth the procedures for the disposition of articles bearing prohibited marks or names, and copyrighted or piratical articles, including release to the importer in appropriate circumstances. **[TD 72-266.]**

Subpart A—Recordation of Trademarks

§ 133.1 Recordation of trademarks.

(a) *Eligible trademarks.* Trademarks registered by the U.S. Patent Office under the Trademark Act of March 3, 1881, the Trademark Act of February 20, 1905, or the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) except those registered on the supplemental register under the 1946 Act (15 U.S.C. 1096), may be recorded with the U.S. Customs Service if the registration is current.

(b) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with §§ 133.2, 133.5, 133.6, and 133.7 of this subpart. (Secs. 28, 42, 60 Stat. 436, 440; 15 U.S.C. 1096, 1124)

§ 133.2 Application to record trademark.

An application to record one or more trademarks shall be in writing, addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

(b) The places of manufacture of goods bearing the recorded trademark;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(d) The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad. For this purpose:

(1) "Common ownership" means individual or aggregate ownership of more than 50 percent of the business entity; and

(2) "Common control" means effective control in policy and operations and is not necessarily synonymous with common ownership. (Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.3 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by:

(1) A status copy of the certificate of registration certified by the United States Patent Office showing title to be presently in the name of the applicant; and

(2) One thousand copies of this certificate, or of a United States Patent Office facsimile. The copies may be reproduced [illegible] accurately and shall be on paper approximately 8 1/2 [illegible] in size. If the certificate consists of two or more p[illegible]he copies may be reproduced on both sides of the pages. **[TD 73-174.]**

(b) *Fee.* The application shall be accompanied by a fee of $190 for each trademark to be recorded. However, if the trademark is registered for more than one class of goods (based on the class, or classes, first stated on the certificate of registration, without consideration of any class, or classes, also stated in parentheses) the fee for recordation shall be $190 for each class for which the applicant desires to record the trademark with the United States Customs Service. For example, to secure recordation of a trademark registered for three classes of goods, a fee of $570 is payable. A check or money order shall be made payable to the United States Customs Service. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.4 Effective date, term, and cancellation of trademark recordation and renewals.

(a) *Effective date.* Recordation of trademark and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the United States Customs Service instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation or renewal of an existing recordation of a trademark shall remain in force concurrently with the 20-year current registration period or last renewal thereof in the Patent Office.

(c) *Cancellation of recordation.* Recordation of a trademark with the United States Customs Service shall be canceled if the trademark registration is finally canceled or revoked. (Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.5 Change of ownership of recorded trademark.

If there is a change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the United States Customs Service, he shall apply therefor by:

(a) Complying with § 133.2;

(b) Describing any time limit on the rights of ownership transferred;

(c) Submitting a status copy of the certificate of registration certified by the United States Patent Office showing title to be presently in the name of the new owner; and

(d) Paying a fee of $80, which covers all trademarks included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.6 Change in name of owner of recorded trademark.

If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the Commissioner of Customs, accompanied by:

(a) A status copy of the certificate of registration certified by the U.S. Patent Office showing title to be presently in the name as changed; and

(b) A fee of $80, which covers all trademarks included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.7 Renewal of trademark recordation.

(a) *Application to renew.* To continue uninterrupted Customs protection for trademarks, the trademark owner shall submit a written application to renew Customs recordation to the Commissioner of Customs not later than 3 months after the date of expiration of the current 20-year trademark registration issued by the Patent Office. A timely application to renew a Customs recordation must include the following:

(1) A status copy of the certificate of registration certified by the U.S. Patent Office showing renewal of the trademark and title to be in the name of the applicant;

(2) A statement describing any change of ownership or in the name of owner, in compliance with §§ 133.5 and 133.6 of this part, and any change of addresses of owners or places of manufacture; and

(3) A fee of $80 for each renewal of a trademark recordation. Where the trademark covers several classes, a fee of $80 is required for each class. A check or money order shall be made payable to the United States Customs Service. **[TD 75-160.]**

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a trademark owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the trademark owner to submit a renewal application within the 3-month grace period afforded in accordance with paragraph (a) of this section or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the trademark owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed trademark in accordance with the procedures and requirements of §§ 133.2 and 133.3. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

Subpart B—Recordation of Trade Names

§ 133.11 Trade names eligible for recordation.

The name or trade style used for at least 6 months to identify a manufacturer or trader may be recorded with the United States Customs Service. Words or designs used as trademarks, whether or not registered in the Patent Office shall not be accepted for recordation as a trade name. Generally, the complete business name will be recorded unless convincing proof establishes that only a part of the complete name is customarily used. (Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.12 Application to record a trade name.

An application to record a trade name shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20229, and shall include the following information:

(a) The name, complete business address, and citizenship of the trade name owner or owners (if a partnership, the citizenship of each partner; if an association or corporation, the State, country, or other political jurisdiction within which it was organized, incorporated or created);

(b) The name or trade style to be recorded;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trade name and a statement as to the use authorized;

(d) The identity of any parent or subsidiary company, or other foreign company under common ownership or control which uses the trade name abroad (see § 133.2(d)); and

(e) A description of the merchandise with which the trade name is associated. (Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.13 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by a statement of the owner, partners, or principal corporate officer, and by statements by at least two other persons not associated with or related to the applicant but having actual knowledge of the facts, stating that to his best knowledge and belief:

(1) The applicant has used the trade name in connection with the class or kind of merchandise described in the application for at least 6 months;

(2) The trade name is not identical or confusingly similar to any other trade name or registered trademark used in connection with such class or kind of merchandise; and

(3) The applicant has the sole and exclusive right to the use of such trade name in connection with the merchandise of that class or kind.

(b) *Fee.* The application shall be accompanied by a fee of $190 for each trade name to be recorded. A check or money order shall be made payable to the United States Customs Service. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.14 Publication of trade name recordation.

(a) *Notice of tentative recordation.* Notice of tentative recordation of a trade name shall be published in the Federal Register and the Customs Bulletin. The notice shall specify a procedure and a time period within which interested parties may oppose the recordation.

(b) *Notice of final action.* After consideration of any claims, rebuttals, and other relevant evidence, notice of final approval or disapproval of the application shall be published in the Federal Register and the Customs Bulletin.

§ 133.15 Term of Customs trade name recordation.

Protection for a recorded trade name shall remain in force as long as the trade name is used. The recordation shall be canceled upon request of the recordant or upon evidence of disuse. From time to time, the Commissioner of Customs may request the trade name owner to advise whether the name is still in use. The failure of a trade name owner to respond to such a request shall be regarded as evidence of disuse. (Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

Subpart C—Importations Bearing Recorded Trademarks or Trade Names

§ 133.21 Restrictions on importation of articles bearing recorded trademarks and trade names.

(a) *Copying or simulating marks or names.* Articles of foreign or domestic manufacture bearing a mark or name copying or simulating a recorded trademark or trade name shall be denied entry and are subject to forfeiture as prohibited importations. A "copying or simulating" mark or name is an actual counterfeit of the recorded mark or name or is one which so resembles it as to be likely to cause the public to associate the copying or simulating mark with the recorded mark or name.

(b) *Identical trademark.* Foreign-made articles bearing a trademark identical with one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States are subject to seizure and forfeiture as prohibited importations.

(c) *Restrictions not applicable.* The restrictions set forth in paragraphs (a) and (b) of this section do not apply to imported articles when:

(1) Both the foreign and the U.S. trademark or trade name are owned by the same person or business entity;

(2) The foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control (see §§ 133.2(d) and 133.12(d));

(3) The articles of foreign manufacture bear a recorded trademark or trade name applied under authorization of the U.S. owner;

(4) The objectionable mark is removed or obliterated prior to importation in such a manner as to be illegible and incapable of being reconstituted, for example by:

(i) Grinding off imprinted trademarks wherever they appear;

(ii) Removing and disposing of plates bearing a trademark or trade name;

(5) The merchandise is imported by the recordant of the trademark or trade name or his designate;

(6) The recordant gives written consent to an importation of articles otherwise subject to the restrictions set forth in paragraphs (a) and (b) of this section, and such consent is furnished to appropriate Customs officials; or

(7) The articles of foreign manufacture bear a recorded trademark and the personal exemption is claimed and allowed under § 148.55 of this chapter. **[TD 79-159.]**

(d) *Exceptions for articles bearing counterfeit trademarks.* The provisions of paragraph (c)(4) of this section are not applicable to articles bearing counterfeit trademarks at the time of importation (see § 133.24) (Sec. 42, 60 Stat. 440, sec. 526, 46 Stat. 741; 15 U.S.C. 1124, 19 U.S.C. 1526) **[TD 79-159.]**

§ 133.22 Detention of articles subject to restrictions.

(a) *In general.* Articles subject to the restrictions of § 133.21 shall be detained for 30 days from the date of notice to the importer that such restrictions apply to permit the importer to establish that any of the circumstances described in § 133.21(c) are applicable.

(b) *Notice of detention.* Notice of detention of articles found subject to the restrictions of § 133.21 shall be given the importer in writing, except that for articles accompanying the importer or arriving by mail, notice of detention shall be given in the following manner:

(1) *Articles accompanying importer.* When the articles are carried as accompanying baggage or on the person of persons arriving in the United States, the Customs inspector shall orally advise the importer that the articles are subject to detention.

(2) *Mail importations.* When the articles arrive by mail in noncommercial shipments, or in commercial shipments valued at $250 or less, notice of the detention shall be given on Customs Form 8.

(c) *Failure to obtain release in 30 days.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be promptly notified of the seizure and liability to forfeiture and his right to petition for relief in accordance with the provisions of Part 171 of this chapter.

§ 133.23 Release of detained articles.

(a) *General.* Articles detained in accordance with § 133.22 may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark or trade name restriction set forth in § 133.21(c) are established.

(b) *Articles accompanying importer.* Articles arriving as accompanying baggage or on the person of the importer may be exported or destroyed under Customs supervision at the request of the importer, or may be released if:

(1) The importer removes or obliterates the marks in a manner acceptable to the Customs officer at the time of examination of the articles; or

(2) The request of the importer to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

(3) The provisions of subparagraphs (1) and (2) are not applicable to articles bearing counterfeit trademarks at the time of importation (see § 133.24) or to trademarked articles exempt from import restrictions under section 526(d), Tariff Act of 1930, as amended (19—— U.S.C. 1526(d)) (see § 148.55 of this chapter.) **[TD 79-159.]**

(c) *Mail importations.* Articles arriving by mail in noncommercial shipments, or in commercial shipments valued at $250 or less may be exported or destroyed at the request of the addressee or may be released if:

(1) The addressee appears in person at the appropriate Customs office and at that time removes or obliterates the marks in a manner acceptable to the Customs officer; or

(2) The request of the addressee appearing in person to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

§ 133.23a Articles bearing counterfeit trademarks.

(a) *Definition.* A "counterfeit trademark" is a spurious trademark which is identical with, or substantially indistinguishable from, a registered trademark.

(b) *Seizure.* Any article imported into the United States bearing a counterfeit trademark shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violation of the Customs laws.

(c) *Notice to trademark owner.* The owner of the trademark shall be notified of the seizure and the quantity of the articles seized. Unless the trademark owner, within 30 days of notification, provides written consent to importation of the articles, exportation, entry after obliteration of the trademark, or other appropriate disposition, the articles shall be disposed of in accordance with § 133.52, subject to the importer's right to petition for relief from the forfeiture under the provisions of Part 171 of this chapter. **[TD 79-159.]**

§ 133.24 Demand for redelivery of released merchandise.

If it is determined that merchandise which has been released from Customs custody is subject to the restrictions of § 133.21, the district director shall promptly make demand for the redelivery of the merchandise under the terms of the entry bond in accordance with § 141.113 of this chapter. If the merchandise is not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 141.113(g) of this chapter. **[TDs 73-175, 74-227.]**

Subpart D—Recordation of Copyrights

§ 133.31 Recordation of copyrighted works.

(a) *Eligible works.* Claims to copyright which have been registered in accordance with the provisions of the Copyright Act of July 30, 1947, as amended (17 U.S.C. 1-32), or unregistered claims to copyright in works entitled to protection under section 9(c) of that Act, as amended (17 U.S.C. 9(c)), by virtue of the Universal Copyright Convention, may be recorded with the United States Customs Service if the copyright is subsisting.

(b) *Persons eligible to record.* The copyright proprietor, or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, may file an application to record a copyright.

(c) *Countries party to the Universal Copyright Convention.* The following countries are party to the Universal Copyright Convention: **[TD 73-212.]**

Andorra, Argentina, Australia, Austria, Belgium, Brazil, Cambodia, Canada, Chile, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Fiji, Finland, France, Germany, Federal Republic of, Ghana, Greece, Guatemala, Haiti, Holy See, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Kenya, Laos, Lebanon, Liberia, Liechtenstein, Luxembourg, Malawi, Malta, Mauritius, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Spain, Sweden, Switzerland, Tunisia, Union of Soviet Socialist Republics, United Kingdom, United States of America, Venezuela, Yugoslavia, Zambia.

(d) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with § 133.32, § 133.35, § 133.36, or § 133.37.

§ 133.32 Application to record copyright.

An application to record a copyright to secure Customs protection against the importation of piratical copies shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name and complete address of the copyright owner or owners;

(b) If the applicant is a person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, a statement setting forth the circumstances of such actual or potential injury;

(c) The name and principal address of any foreign person or business entity authorized or licensed to use the copyright, and a statement as to the use authorized;

(d) The foreign title of the work, if different from the U.S. title; and

(e) In the case of protection claimed under section 9(c) of the Copyright Act, by virtue of the Universal Copyright Convention, a statement setting forth the name of the author and his citizenship and domicile at the time of first publication, and a description of the work, including its title, and a statement that all copies bore the Universal Copyright Convention notice from the date of first publication.

(f) In the case of an application to record a copyright in a sound recording, a statement setting forth the name(s) of the performing artist(s), and any other identifying names appearing on the surface of reproduction of the sound recording, or on its label or container. **[TD 77-201.]**

§ 133.33 Documents and fee to accompany application.

(a) *Documents.* The application for recordation shall be accompanied by the following documents:

(1) An "additional certificate" of copyright registration issued by the U.S. Copyright Office, except for unregistered Universal Copyright Convention works as described in § 133.32(e) of this subpart. If the name of the applicant differs from the name of the copyright owner identified in the certificate, or from the name appearing in the Universal Copyright Convention notice referred to in § 133.32(e), the application shall also be accompanied by a certified copy of any assignment, exclusive license, or other document recorded in the Copyright Office showing that the applicant has acquired an ownership interest in the copyright.

(2) One thousand photographic or other likenesses reproduced on paper approximately 8″ × 10 1/2″ in size of any copyrighted work. An application shall be excepted from this requirement if it covers a work such as a book, magazine, periodical, or similar copyrighted matter readily identifiable by title and author or if it covers a sound recording. One thousand likenesses of a component part of a copyrighted work, together with the name or title, if any, by which the par depicted is identifiable, may accompany an application covering an entire copyrighted work. **[TDs 73-174, 77-201.]**

(b) *Fee.* Each application shall be accompanied by a fee of $190 for each copyright to be recorded. A check or money order shall be made payable to the United States Customs Service. (Sec. 501, 65 Stat. 290; 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.34 Effective date, term, and cancellation of recordation.

(a) *Effective date.* Recordation of copyright and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the United States Customs Service instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation of a copyright shall remain in force until the ownership interest of the recordant in the copyright expires. Unless such ownership interest expires sooner, the recordation shall remain in force until the end of the initial 28-year term of copyright, or, if the recordation is renewed in accordance with § 133.37, until the end of the renewal term of the copyright.

(c) *Cancellation.* Recordation of a copyright with the United States Customs Service shall be canceled upon request of the recordant, or if the registration in the U.S. Copyright Office is finally canceled or revoked.

§ 133.35 Change of ownership of recorded copyright.

(a) *Application.* If the ownership of a recorded copyright is transferred and the owner wishes to continue the recordation with the United States Customs Service, he shall make written application to the Commissioner of Customs as follows:

(1) Comply, as appropriate, with § 133.32; and

(2) Describe any time limit on the rights of ownership transferred.

(b) *Document and fee.* The application shall be accompanied by:

(1) A certified copy of any assignment, exclusive license, or other document recorded in the U.S. Copyright Office showing the applicant has acquired an ownership interest in the copyright; and

(2) A fee of $80, which covers all copyrights included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service. (Sec. 501, 65 Stat. 290; 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.36 Change in name of owner of recorded copyright.

If there is a change in the name of the owner of a recorded copyright, but no transfer of ownership, written notice specifying the change shall be given to the Commissioner of Customs accompanied by the following:

(a) A certified copy of any document recorded in the U.S. Copyright Office showing the change in the name of the owner; and

(b) Payment of a fee of $80, which covers all copyrights included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service. (Sec. 501, 65 Stat. 290; 31 U.S.C. 483a) **[TD 75-160.]**

§ 133.37 Renewal of copyright recordation.

(a) *Application for renewal.* To continue uninterrupted Customs protection for a recorded copyright, the copyright owner shall make written application to the Commissioner of Customs to renew Customs recordation not later than 3 months from the date of expiration of the term of the copyright. An application to renew a Customs recordation shall include the following:

(1) An "additional certificate" of the renewal registration issued by the U.S. Copyright Office showing that a claim to renewal copyright in the name of the applicant or his predecessor in interest has been registered;

(2) A statement describing any change of ownership or name of owner, in compliance with § § 133.35 and 133.36 and any change of address of the owner; and

(3) Payment of a fee of $80. A check or money order shall be made payable to the United States Customs Service. **[TD 75-160.]**

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a copyright owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the copyright owner to submit a renewal application within the 3-month grace period afforded in accordance with paragraph (a) of this section, or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the copyright owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed copyright in accordance with the procedures and requirements of § § 133.22 and 133.33. (Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

Subpart E—Importations Violating Copyright Laws

§ 133.41 False notice of copyright.

(a) *Importation prohibited.* The importation of articles bearing a false notice of copyright is prohibited. Books, periodicals, newspapers, music, moving picture films, and other articles which bear words indicating they are entitled to copyright protection in the United States, when in fact they are not so entitled, bear a false notice of copyright.

(b) *Seizure and forfeiture.* All articles bearing a false notice of copyright shall be seized and forfeited, except when imported in the mails. Such articles imported in the mails shall be returned to the postmaster for return to the sender as nondeliverable. (Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.42 Piratical copies.

(a) *Definition.* Piratical copies are actual copies or substantial copies of a recorded copyrighted work, produced and imported in contravention of the rights of the copyright owner.

(b) *Importation prohibited.* The importation of piratical copies of works copyrighted in the United States is prohibited.

(c) *Seizure and forfeiture.* The district director shall seize and forfeit an imported article which he determines constitutes a piratical copy of a recorded copyrighted work. The district director shall also seize and forfeit an imported article if the importer does not deny a representation that the article is a piratical copy as provided in § 133.43(a). (Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.43 Procedure on suspicion of piratical copying.

(a) *Notice to the importer.* If the district director has any reason to believe that an imported article may be a piratical copy of a recorded copyrighted work, he shall withhold delivery, notify the importer of his action, and advise him that if the facts so warrant he may file a statement denying that the article is in fact a piratical copy and alleging that the detention of the article will result in a material depreciation of its value, or a loss or damage to him. The district director shall also advise the importer that in the absence of receipt within 30 days of a denial by the importer that the article constitutes a piratical copy, it shall be considered to be such a copy and shall be subject to seizure and forfeiture.

(b) *Notice to copyright owner.* If the importer of suspected piratical copies files a denial as provided in paragraph (a) of this section, the district director shall furnish the copyright owner a representative sample of the imported articles, together with notice that the imported articles will be released to the importer unless within 30 days from the date of the notice the copyright owner files with the district director:

(1) A written demand for the exclusion from entry of the detained imported articles; and

(2) A bond in the form and amount specified by the district director, conditioned to hold the importer or owner of such imported articles harmless from any loss or damage resulting from Customs detention in the event the Commissioner of Customs or his designee determines that the article is not a piratical copy prohibited importation under section 106 of the Copyright Act (17 U.S.C. 106).

(c) *Result of action or inaction by copyright owner.* After notice to the copyright owner that delivery is being withheld for imported articles suspected to be piratical copies of his recorded copyrighted work, the district director shall proceed in accordance with the applicable procedure set forth below:

(1) *Demand and bond filed.* If the copyright owner files a written demand for exclusion of the suspected piratical copies together with a proper bond, the district director shall promptly notify the importer and the copyright owner that, during a specified time limited to not more than 30 days, they may submit further evidence, legal briefs, or other pertinent material to substantiate the claim or denial of piratical copying. The burden of proof shall be upon the party claiming that any article is in fact a piratical copy. At the close of the period specified for submission of evidence, the district director shall forward the

entire file in the case, together with a representative sample of the imported articles and his views or comments, to the Commissioner of Customs or his designee for decision of the disputed claim of piratical copying.

(2) *Piracy disclaimed or unsupported.* If the copyright owner disclaims that the specific imported article is a piratical copy of his recorded copyrighted work, or concedes that he possesses insufficient evidence or proofs to substantiate a claim of piracy, the district director shall release the detained shipment to the importer, and shall release any further importations of the same article, by whomever imported, without further notice to the copyright owner.

(3) *Failure to file demand or bond.* If the copyright owner fails to file a written demand for exclusion and bond as required by paragraph (b) of this section, the district director shall release the detained articles to the importer, and notify the copyright owner of the release. The district director shall withhold delivery of all further importations of the same article by the same importer, and shall notify the copyright owner of each such subsequent shipment as provided in paragraph (b) of this section.

(4) *Withdrawal of bond.* At any time prior to transmittal of the case to the Commissioner of Customs or his designee for decision, the copyright owner may withdraw a bond filed in accordance with paragraph (b) of this section. Prior to returning the bond to the copyright owner and release of the detained articles, the district director shall require the copyright owner and the importer to file written statements agreeing to hold the United States Customs Service and the district director harmless for any consequence or return of the bond and release of the detained articles. After the withdrawal of a bond, the district director shall release importations of the same article by the same importer without further notice to the copyright owner.

§ 133.44 Decision of disputed claim of piratical copying.

(a) *Claim of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is a piratical copy, the district director shall seize and forfeit the imported articles in accordance with Part 162 of this chapter, and shall return the bond to the copyright owner.

(b) *Denial of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is not a piratical copy, the district director shall release all such detained merchandise and transmit the copyright owner's bond to the importer. (Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.45 U.S. manufacturing requirements for books and periodicals.

(a) *Importation prohibited.* Books and periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16) which requires manufacture in the United States may not be imported during the existence of the U.S. copyright unless:

(1) The importation is permitted under one of the limited exceptions in 17 U.S.C. 107;

(2) The importation is entitled to U.S. copyright protection under the provisions of 17 U.S.C. 9(c) by virtue of the Universal Copyright Convention (see paragraph (c) of this section); or

(3) The importation is permitted by an ad interim copyright (see paragraph (b) of this section).

(b) *Release under ad interim copyright.* Upon compliance with the usual Customs requirements, the district director may release up to 1,500 copies of a book or periodical covered by an ad interim copyright when imported pursuant to the quantitative exception in 17 U.S.C. 16 if:

(1) There is presented with the entry an "Import Statement" issued by the Register of Copyrights authorizing the importation of a number of copies not in excess of 1,500 copies; and

(2) The copies are otherwise admissible.

(c) *Release under Universal Copyright Convention*—(1) *Determination of eligibility.* The district director shall release books under the Universal Copyright Convention without an "Import Statement" and in unlimited quantities upon a determination that either:

(i) The book was first published in a Convention country other than the United States, and the author was not a citizen or domiciliary of the United States at the time of first publication; or

(ii) The book was first published abroad, and at the time of first publication, the author was a citizen of a Convention country other than the United States and was not domiciled in the United States.

(2) *Information required.* Prior to releasing the books, the district director shall require the importer to supply the following information in writing:

(i) The country in which the book was first published;

(ii) The country of which the author was not a citizen at the time of first publication; and

(iii) Whether the author was domiciled in the United States at the time of first publication. (Secs. 9, 16, 107, 61 Stat. 655, as amended, 657, as amended, 663; 17 U.S.C. 9, 16, 107)

§ 133.46 Demand for redelivery of released articles.

If it is determined that articles which have been released from Customs custody are subject to the prohibitions or restrictions of this subpart, the district director at the port of entry shall promptly make demand for redelivery of the articles under the terms of the entry bond in accordance with § 141.113 of this chapter. If the articles are not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 141.113(g) of this chapter. **[TDs 73-175, 74-227.]**

Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

§ 133.51 Relief from forfeiture or liquidated damages.

(a) *Petition for relief.* The importer may petition in accordance with Parts 171 and 172 of this chapter for relief from, or cancellation of, a forfeiture incurred for violation of the trademark or copyright laws, or a claim for liquidated damages for failure to redeliver released merchandise incurred under the provisions of § 133.24 or § 133.46.

(b) *Conditioned relief.* In appropriate cases, except for articles bearing a counterfeit trademark, relief from a forfeiture may be granted pursuant to a petition for relief upon the following conditions and such other conditions as may be specified by the appropriate Customs authority: **[TD 79-159.]**

(1) The unlawfully imported or prohibited articles are exported or destroyed under Customs supervision and at no expense to the Government;

(2) All offending trademarks or trade names are removed or obliterated prior to release of the articles:

(3) In the case of books or periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16):

(i) Satisfactory evidence is submitted that a statement of abandonment has been filed and recorded in the Copyright Office by the copyright owner in accordance with the procedures of the Copyright Office; and

(ii) The notice of copyright is completely obliterated prior to release of the books or periodicals.

§ 133.52 Disposition of forfeited merchandise.

(a) *Trademark (other than counterfeit) or trade name violations.* Articles forfeited for violation of the trademark laws, other than articles bearing a counterfeit trademark, shall be disposed of in accordance with the procedures applicable to forfeitures for violation of the Customs laws, after the removal or obliteration of the name, mark, or trademark by reason of which the articles were seized.

(b) *Copyright violations.* Articles forfeited for violation of the copyright laws shall be destroyed.

(c) *Articles bearing a counterfeit trademark.* The Commissioner of Customs or his designee shall dispose of forfeited articles bearing a counterfeit trademark after obliteration of the trademark, where feasible, in the following manner:

(1) *Government use.* By delivery to any Federal, State, or local government agency which, in the opinion of the Commissioner or his designee, has established a need for the article.

(2) *Gifts to charities.* By delivery to any charitable institution which, in the opinion of the Commissioner or his designee, has established a need for the article.

(3) *Sale.* If more than 1 year has passed since the forfeiture, the article may be sold at public auction by the Commissioner or his designee. Prior to sale, the Commissioner or his designee shall determine that a need for the article has not been established by any eligible government organization or charitable institution under paragraph (c)(1) or (c)(2) of this section.

(4) *Destruction.* If the article is unsafe or a health hazard, it shall be destroyed. (Sec. 42, 60 Stat. 440, sec. 108, 61 Stat. 664, 15 U.S.C. 1124, 17 U.S.C. 108). **[TD 79-159.]**

§ 133.53 Refund of duty.

If a violation of the trademark or copyright laws is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation and the duty refunded as an erroneous collection upon exportation or destruction of the prohibited articles in accordance with § 158.41 or § 158.45 of this chapter. (Sec. 558(a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a)) **[TD 73-175.]**

PART 134—COUNTRY OF ORIGIN MARKING

Sec.

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Authority: R.S. 251, as amended, secs. 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624.

Source: T.D. 72-262, 37 FR 20318, Sept. 29, 1972, unless otherwise noted.

§ 134.0 Scope.

This part sets forth regulations implementing the country of origin marking requirements and exceptions of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking provisions of the Tariff Schedules of the United States (19 U.S.C. 1202). The consequences and procedures to be followed when articles are not legally marked are set forth in this part. The consequences and procedures to be followed when articles are falsely marked are set forth in § 11.13 of this chapter. Special marking and labeling requirements are covered elsewhere. **[TDs 72-262, 81-290.]**

Subpart A—General Provisions

§ 134.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Country.* "Country" means the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of the mother country are considered separate countries.

(b) *Country of origin.* "Country of origin" means the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of this part.

(c) *Foreign origin.* "Foreign origin" refers to a country of origin other than the United States, as defined in paragraph (e) of this section, or its possessions and territories.

(d) *Ultimate purchaser.* The "ultimate purchaser" is generally the last person in the United States who will receive the article in the form in which it was imported. It is not feasible to state who will be the "ultimate purchaser" in every circumstance. The following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the "ultimate purchaser."

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser."

(4) If the imported article is distributed as a gift the recipient is the "ultimate purchaser."

(e) *United States.* "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(f) *Customs territory of the United States.* "Customs territory of the United States," as used in this chapter includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 134.2 Additional duties.

Articles not marked as required by this part shall be subject to additional duties of 10 percent of the final appraised value unless exported or destroyed under Customs supervision prior to liquidation of the entry, as provided in paragraph (c) of section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304(c)). The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake.

§ 134.3 Delivery withheld until marked and redelivery order.

(a) Any imported article (or its container) held in Customs custody for inspection, examination or appraisement shall not be delivered until marked with its country of origin, or until estimated duties payable under 19 U.S.C. 1304(c), or adequate security for those duties (see § 134.53(a)(2)), are deposited.

(b) The district director may demand redelivery to Customs custody of any article (or its container) previously released which is found to be not marked legally with its country of origin for the purpose of requiring the article (or its container) to be properly marked, a demand for redelivery shall be made, as required under § 141.113(a) of this chapter, not later than 30 days after—

(1) The date of entry, in the case of merchandise examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(1) The date of examination, in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the district director.

(c) Nothing in this part shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law. **[TD 80-88.]**

§ 134.4 Penalties for removal, defacement, or alteration of marking.

Any intentional removal, defacement, destruction or alteration of a marking of the country of origin required by section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), and this part in order to conceal this information may result in criminal penalties of up to $5,000 and/or imprisonment for 1 year, as provided in section 304(e), Tariff Act of 1930, as amended (19 U.S.C. 1304(e)).

Subpart B—Articles Subject to Marking

§ 134.11 Country of origin marking required.

Unless excepted by law, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article, at the time of importation into the Customs territory of the United States. Containers of articles excepted from marking shall be marked with the name of the country of origin of the article unless the container is also excepted from marking.

§ 134.12 Foreign articles reshipped from a U.S. possession.

Articles of foreign origin imported into any possession of the United States outside its Customs territory and reshipped to the United States are subject to all marking requirements applicable to like articles of foreign origin imported directly from a foreign country to the United States.

§ 134.13 Imported articles repacked or manipulated.

(a) *Marking requirement.* An article within the provisions of this section shall be marked with the name of the country of origin at the time the article is withdrawn for consumption unless the article and its container are exempted from marking under provisions of Subpart D of this part at the time of importation.

(b) *Applicability.* The provisions of this section are applicable to the following articles:

(1) Articles repacked in a bonded warehouse under § 19.8 of this chapter;

(2) Articles manipulated under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), and § 19.11 of this chapter;

(3) Articles manipulated, but not manufactured, in a foreign-trade zone under § 146.32 of this chapter.

§ 134.14 Articles usually combined.

(a) *Articles combined before delivery to purchaser.* When an imported article is of a kind which is usually combined with another article after importation but before delivery to an ultimate purchaser and the name indicating the country of origin of the article appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which shall clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined after importation.

(b) *Example.* Labels and similar articles so marked that the name of the country of origin of the label or article is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "Label made (or printed) in (name of country)" or words of similar meaning. See Subpart C of this part for marking of bottles, drums, or other containers.

(c) *Applicability.* This section shall not apply to articles of a kind which are ordinarily so substantially changed in the United States that the articles in their changed condition become products of the United States. An article excepted from marking under Subpart D of this part is not within the scope of section 304(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(2)), and is not subject to the requirements of this section.

Subpart C—Marking of Containers or Holders

§ 134.21 Special marking.

This subpart includes only country of origin marking requirements and exceptions under section 304(b), Tariff Act of 1930, as amended (19 U.S.C. 1304(b)), for containers or holders. Special marking may be required by the Internal Revenue Service on alcoholic beverage bottles and other requirements may be imposed by reason of the nature of the contents by other Government agencies.

§ 134.22 General rules for marking of containers or holders.

(a) *Contents excepted from marking.* When an article is excepted from the marking requirements by Subpart D of this part, the outermost container or holder in which the article ordinarily reaches the ultimate purchaser shall be marked to indicate the country of origin of the article whether or not the article is marked to indicate its country of origin.

(b) *Containers or holders treated as imported articles.* Containers or holders for imported merchandise subject to treatment as imported articles within the purview of general headnote 6, Tariff Schedules of the United States (19 U.S.C. 1202), shall be marked to indicate clearly the country of their own origin in addition to any marking which may be required to show the country of origin of their contents.

(c) *Containers or holders bearing a U.S. address.* Containers or holders of imported merchandise bearing the name and address of an importer, distributor, or other person or company in the United States shall be marked in close proximity to the U.S. address to indicate clearly the country of origin of the contents with a marking such as "Contents made in France" or "Contents Product of Spain."

(d) *Exceptions.* Containers or holders of imported articles are not required to be marked if:

(1) *Excepted articles.* They are containers or holders of articles within the exceptions set forth in paragraph (f), (g), or (h) in § 134.32.

(2) *Excepted containers or holders.* The container or holder itself is within an exception set forth in Subpart D of this part.

(3) *To be filled by the importer.* The container or holder is within the exception set forth in § 134.24(c).

§ 134.23 Containers or holders designed for or capable of reuse.

(a) *Usual and ordinary reusable containers or holders.* Containers or holders designed for or capable of reuse after the contents have been consumed, whether imported full or empty, must be individually marked to indicate the country of their own origin with a marking such as, "Container Made in (name of country)." Examples of the containers or holders contemplated are heavy duty steel drums, tanks, and other similar shipping, storage, transportation containers or holders capable of reuse. These containers or holders are subject to the treatment specified in headnote 6(b)(ii), Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Other reusable containers or holders.* Containers or holders within the purview of headnote 6(b)(iii), Tariff Schedules of the United States (19 U.S.C. 1202), must be individually marked to clearly indicate their own origin with a marking such as, "Container made in (name of country)." Examples of the containers contemplated are mustard jars reusable as beer mugs; shaving soap containers reusable as shaving mugs; fancy cologne bottles reusable as flower vases, and other containers which have a lasting value or decorative use.

§ 134.24 Containers or holders not designed for or capable of reuse.

(a) *Containers ordinarily discarded after use.* Disposable containers or holders subject to the provisions of this section are the usual ordinary types of containers or holders, including cans, bottles, paper or polyethylene bags, paperboard boxes, and similar containers or holders which are ordinarily discarded after the contents have been consumed.

(b) *Imported empty.* Disposable containers or holders imported for distribution or sale are subject to treatment as imported articles in accordance with general headnote 6(a), Tariff Schedules of the United States (19 U.S.C. 1202), and shall be marked to indicate clearly the country of their own origin. However, when the containers are packed and sold in multiple units (dozens, gross, etc.), this requirement ordinarily may be met by marking the outermost container which reaches the ultimate purchaser.

(c) *Imported to be filled*—(1) *If unmarked.* When disposable containers or holders are imported by persons or firms who fill or package them with various products which they sell, these persons or firms are the "ultimate purchasers" of these containers or holders and they may be excepted from individual marking pursuant to 19 U.S.C. 1304(a)(3)(D). The outside wrappings or packages containing the containers shall be clearly marked to indicate the country of origin.

(2) *If marked.* If the disposable containers or holders are marked with the country of origin at the time of importation and the marking will be visible after they are filled, the marking shall clearly indicate that the container only and not the contents were made in the named country. For example, bottles, drums, or other containers imported empty, to be filled in the United States, shall be marked with such words as "Bottle (or container) made in (name of country)."

(d) *Imported full*—(1) *When contents are excepted from marking.* Usual disposable containers in use as such at the time of importation shall not be required to be marked to show the country of their own origin, but shall be marked to indicate the origin of their contents regardless of the fact that the contents are excepted from marking requirements.

(2) *Sealed containers or holders.* Disposable containers or holders of imported merchandise, which are sold without normally being opened by the ultimate purchaser (e.g., individually wrapped soap bars or tennis balls in a vacuum sealed can), shall be marked to indicate the country of origin of their contents.

(3) *Unsealed containers.* Unsealed disposable containers of imported merchandise normally unopened by the ultimate purchaser, may be excepted from marking if the article is so marked that the country of origin is clearly visible without unpacking the container. However, if the container is normally opened by the ultimate purchaser prior to purchase, only the article need be marked.

Subpart D—Exceptions to Marking Requirements

§ 134.31 Requirements of other agencies.

Nothing in this subpart shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of any law, such as those of the Federal Trade Commission, Food and Drug Administration, and other agencies.

§ 134.32 General exceptions to marking requirements.

The articles described or meeting the specified conditions set forth below are excepted from marking requirements (see Subpart C of this part for marking of the containers):

(a) Articles that are incapable of being marked;

(b) Articles that cannot be marked prior to shipment to the United States without injury;

(c) Articles that cannot be marked prior to shipment to the United States except at an expense economically prohibitive of its importation;

(d) Articles for which the marking of the containers will reasonably indicate the origin of the articles; **[TD 74-122.]**

(e) Articles which are crude substances;

(f) Articles imported for use by the importer and not intended for sale in their imported or any other form;

(g) Articles to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such articles and in such manner that any mark contemplated by this part would necessarily be obliterated, destroyed, or permanently concealed;

(h) Articles for which the ultimate purchaser must necessarily know the country of origin by reason of the circumstances of their importation or by reason of the character of the articles even though they are not marked to indicate their origin;

(i) Articles which were produced more than 20 years prior to their importation into the United States;

(j) Articles entered or withdrawn from warehouse for immediate exportation or for transportation and exportation;

(k) Products of American fisheries which are free of duty;

(l) Products of possessions of the United States;

(m) Products of the United States exported and returned;

(n) Articles exempt from duty under § § 10.151 through 10.153, 145.31 or 145.32 of this chapter; and **[TDs 73-135, 73-175.]**

(o) Articles which cannot be marked after importation except at an expense that would be economically prohibitive unless the importer, producer, seller, or shipper failed to mark the articles before importation to avoid meeting the requirements of the law.

§ 134.33 J-List exceptions.

Articles of a class or kind listed below are excepted from the requirements of country of origin marking in accordance with the provisions of section 304(a)(3)(J), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(3)(J)). However, in the case of any article described in this list which is imported in a container, the outermost container in which the article ordinarily reaches the ultimate purchaser is required to be marked to indicate the origin of its contents in accordance with the requirements of Subpart C of this part. All articles are listed in Treasury Decisions 49690, 49835, and 49896. A reference different from the foregoing indicates an amendment.

Articles	*References*
Art, works of.	
Articles classifiable under items 850.40, 850.70, 851.20, and 851.30, Tariff Schedules of the United States.	T.D. 66-153.
Articles entered in good faith as antiques and rejected as unauthentic.	
Bagging, waste.	
Bags, jute.	
Bands, steel.	
Beads, unstrung.	
Bearings, ball, 5/8-inch or less in diameter.	
Blanks, metal, to be plated.	
Bodies, harvest hat.	
Bolts, nuts, and washers.	
Briarwood in blocks.	
Briquettes, coal or coke.	
Buckles, 1 inch or less in greatest dimension.	
Burlap.	
Buttons.	
Cards, playing.	
Cellophane and celluloid in sheets, bands, or strips.	
Chemicals, drugs, medicinal, and similar substances, when imported in capsules, pills, tablets, lozenges, or troches.	
Cigars and cigarettes.	
Covers, straw bottle.	
Dies, diamond wire, unmounted.	
Dowels, wooden.	
Effects, theatrical.	
Eggs.	
Feathers.	
Firewood.	
Flooring, not further manufactured than planed, tongued and grooved.	T.D.s 49750; 50366(6).
Flowers, artificial, except bunches.	
Flowers, cut.	
Glass, cut to shape and size for use in clocks, hand, pocket, and purse mirrors, and other glass of similar shapes and sizes, not including lenses or watch crystals.	
Glides, furniture, except glides with prongs.	
Hairnets.	
Hides, raw.	
Hooks, fish (except snelled fish hooks).	T.D. 50205(3).
Hoops (wood), barrel.	
Laths.	
Leather, except finished.	
Livestock.	
Lumber, sawed	T.D.s 49750; 50366(6).
Metal bars, except concrete reinforcement bars; billets, blocks, blooms; ingots; pigs; plates; sheets; except galvanized sheets; shafting; slabs; and metal in similar forms	
Mica not further manufactured than cut or stamped to dimensions, shape or form.	

Articles	*References*
Monuments.	
Nails, spikes, and staples.	
Natural products, such as vegetables, fruits, nuts, berries, and live or dead animals, fish and birds; all the foregoing which are in their natural state or not advanced in any manner further than is necessary for their safe transportation.	
Nets, bottle, wire.	
Paper, newsprint.	
Paper, stencil.	
Paper, stock.	
Parchment and vellum.	
Parts for machines imported from same country as parts.	
Pickets (wood).	
Pins, tuning.	
Pipes, iron or steel, and pipe fittings of cast or malleable iron (except cast iron soil pipe and fittings).	T.D. 71-89.
Plants, shrubs and other nursery stock.	
Plugs, tie.	
Poles, bamboo.	
Posts (wood), fence.	
Pulpwood.	
Rags (including wiping rags).	
Rails, joint bars, and tie plates covered by item 610.20 through 610.26, Tariff Schedules of the United States.	
Ribbon.	
Rivets.	
Rope, including wire rope; cordage; cords; twines, threads, and yarns.	
Scrap and waste.	
Screws.	
Shims, track.	
Shingles (wood), bundles of (except bundles of red-cedar shingles).	T.D. 49750.
Skins, fur, dressed or dyed.	
Skins, raw fur.	
Sponges.	
Springs, watch.	
Stamps, postage and revenue, and other articles covered in item 274.40, Tariff Schedules of the United States.	T.D. 66-153.
Staves (wood), barrel.	
Steel, hoop.	
Sugar, maple.	
Ties (wood), railroad.	
Tiles, not over 1 inch in greatest dimension.	
Timbers, sawed.	
Tips, penholder.	
Trees, Christmas.	
Weights, analytical and precision in sets.	T.D.s 49750; 51802.
Wicking, candle.	
Wire, except barbed.	

§ 134.34 Certain repacked articles.

(a) *Exception for repacked articles.* An exception under § 134.32(d) may be authorized in the discretion of the district director for imported articles which are to be repacked after release from Customs custody under the following conditions:

(1) The containers in which the articles are repacked will indicate the origin of the articles to an ultimate purchaser in the United States.

(2) The importer arranges for supervision of the marking of the containers by Customs officers at the importer's expense or secures such verification, as may be necessary, by certification and the submission of a sample or otherwise, of the marking prior to the liquidation of the entry.

(b) *Liquidation of entries.* The liquidation of such entries may be deferred for a period of not more than 60 days from the date that a request for repacking is granted. Extensions of the 60-day deferral period may be granted by the district director in his discretion upon written application by the importer.

§ 134.35 Articles substantially changed by manufacture.

An article used in the United States in manufacture which results in an article having a name, character, or use differing from that of the imported article, will be within the principle of the decision in the case of United States v. Gibson-Thomsen Co., Inc., 27 C.C.P.A. 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the "ultimate purchaser" of the imported article within the contemplation of section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and the article shall be excepted from marking. The outermost containers of the imported articles shall be marked in accord with this part.

§ 134.36 Inapplicability of exceptions.

(a) *Processed articles capable of marking.* An article which is to be processed in the United States by the importer or for his account shall not be considered to be within the specifications of section 304(a)(3)(G), of the Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(3)(G)), if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing.

(b) *Articles or container bearing misleading markings.* An exception from marking shall not apply to any article or retail container bearing any words, letters, names, or symbols described in § 134.46 or 134.47 which imply that an article was made or produced in a country other than the actual country of origin.

Subpart E—Method and Location of Marking Imported Articles

§ 134.41 Methods and manner of marking.

(a) *Suggested methods of marking.* Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that the marking of the country of origin be legible, indelible, and permanent. Definite methods of marking are prescribed only for articles provided for in § 134.43 and for articles which are the objects of special rulings by the Commissioner of Customs. As a general rule, marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in or etched; on earthenware or chinaware be glazed on in the process of firing; and on paper articles be imprinted.

(b) *Degree of permanence and visibility.* The degree of permanence should be at least sufficient to insure that in any reasonably foreseeable circumstance, the marking shall remain on the article (or its container) until it reaches the ultimate purchaser unless it is deliberately removed. The marking must survive normal distribution and store handling. The ultimate purchaser in the United States must be able to find the marking easily and read it without strain.

§ 134.42 Specific method may be required.

Marking merchandise by specific methods, such as die stamping, cast-in-the-mold lettering, etching, or engraving, or cloth labels may be required by the Commissioner of Customs in accordance with section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)). Notices of such rulings shall be published in the Federal Register and the Customs Bulletin. **[TD 74-38.]**

Cross Reference: For a decision relating to the marking of imported eyeglasses, sunglass frames, and rotary metal cutting tools, see T.D. 74-38, 39 FR 2470, Jan. 22, 1974; T.D. 74-122, 39 FR 13538, Apr. 15, 1974.

§ 134.43 Methods of marking specific articles.

(a) *Marking required by certain provisions of the Tariff Act of 1930.* Articles such as knives, clippers, shears, safety razors, surgical instruments, scientific and laboratory instruments, pliers, pincers, vacuum containers, and parts thereof shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets. The articles such as those referred to are classifiable under the following items of the Tariff Schedules of the United States: **[TD 77-236.]**

545.31-545.37, 648.63, 648.71, 648.73, 648.75, 648.81, 648.85, 648.91, 649.71-650.49, 650.61-650.75, 650.79-650.91, 651.13, 660.92-660.94, 661.70, 661.90, 661.95, 683.40, 683.95, 684.40, 686.70, 708.78, 708.82, 709.07, 709.13, 709.15, 709.19-709.27, 709.56, 710.04, 710.08, 710.12, 710.36, 710.42, 710.50, 710.60, 710.61, 710.63, 710.76, 710.80, 711.08, 711.25, 711.42, 711.45, 711.88, 712.15, 712.20, 712.47-712.49, 726.10, 790.59-790.63.

(b) *Watch, clock, and timing apparatus.* The country of origin marking requirements on watches, clocks, and timing apparatus are intensive and require special methods. (See § 11.9 of this chapter and schedule 7, part 2, subpart E, headnotes 4 and 5 of the Tariff Schedules of the United States (19 U.S.C. 1202)).

§ 134.44 Location and other acceptable methods of marking.

(a) *Other acceptable methods.* Except for articles classifiable under an item specified in § 134.43 of this part or the subject of a ruling by the Commissioner of Customs, any method of marking at any location insuring that country of origin will conspicuously appear on the article shall be acceptable. Such marking must be legible and sufficiently permanent so that it will remain on the article (or its container when the container and not the article is required to be marked) until it reaches the ultimate purchaser unless deliberately removed.

(b) *Articles marked with paper sticker labels.* If paper sticker or pressure sensitive labels are used, they must be affixed in a conspicuous place and so securely that unless deliberately removed they will remain on the article while it is in storage or on display and until it is delivered to the ultimate purchaser.

(c) *Articles marked with tags.* When tags are used, they must be attached in a conspicuous place and in a manner which assures that unless deliberately removed they will remain on the article until it reaches the ultimate purchaser.

§ 134.45 Approved markings of country name.

(a) *English language.* The markings required by this part shall include the English name of the country of origin, unless other marking to indicate the English name of the country of origin is specifically authorized by the Commissioner of Customs. Notice of acceptable markings other than the English name of the country of origin shall be published in the Federal Register and the Customs Bulletin.

(b) *Abbreviations and variant spellings.* Abbreviations which unmistakably indicate the name of a country, such as "Gt. Britain" for "Great Britain" or "Luxemb" and "Luxembg" for "Luxembourg" are acceptable. Variant spellings which clearly indicate the English name of the country of origin, such as "Brasil" for "Brazil" and "Italie" for "Italy," are acceptable. **[TD 74-42.]**

Cross Reference: For a ruling on an acceptable variable spelling of "Denmark", see T.D. 74-42, 39 FR 2471, Jan. 22, 1974.

(c) *Adjectival form.* The adjectival form of the name of a country shall be accepted as a proper indication of the name of the country of origin of imported merchandise provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. For example, such terms as "English walnuts" or "Brazil nuts" are unacceptable.

(d) *Colonies, possessions, or protectorates.* The name of a colony, possession, or protectorate outside the boundaries of the mother country shall usually be considered acceptable marking. When the Commissioner of Customs finds that the name is not sufficiently well known to insure that the ultimate purchasers will be fully informed of the country of origin, or where the name appearing alone may cause confusion, deception, or mistake, clarifying words shall be required. In such cases, the Commissioner of Customs shall specify in decisions published in the Federal Register and the Customs Bulletin the additional wording to be used in conjunction with the name of the colony, possession, or protectorate. **[TD 74-208.]**

Cross Reference: For a ruling on products imported from the French islands of Amsterdam, St. Paul and Kerguelen, see T.D. 74-208, 39 FR 27648, July 31, 1974.

§ 134.46 Marking when name of country or locality other than country of origin appears.

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced, appear on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

§ 134.47 Souvenirs and articles marked with trademarks or trade names.

When as part of a trademark or trade name or as part of a souvenir marking, the name of a location in the United States or "United States" or "America" appear, the article shall be legibly, conspicuously, and permanently marked to indicate the name of the country of origin of the article preceded by "Made in," "Product of," or other similar words, in close proximity or in some other conspicuous location.

Subpart F—Articles Found Not Legally Marked

§ 134.51 Procedure when importation found not legally marked.

(a) *Notice to mark or redeliver.* When articles or containers are found upon examination not to be legally marked, the district director shall notify the importer on Customs Form 4647 to arrange with the district director's office to properly mark the article or containers, or to return all released articles to Customs custody for marking, exportation, or destruction.

(b) *Identification of articles.* When an imported article which is not legally marked is to be exported, destroyed, or marked under Customs supervision, the identity of the imported article shall be established to the satisfaction of the district director.

(c) *Supervision.* Verification of marking, exportation, or destruction of articles found not to be legally marked shall be at the expense of the importer and shall be performed under Customs supervision unless the district director accepts a certificate of marking as provided for in § 134.52 in lieu of marking under Customs supervision.

§ 134.52 Certificate of marking.

(a) *Applicability.* District directors may accept certificates of marking supported by samples of articles required to be marked, for which Customs Form 4647 was issued, from importers or from actual owners complying with the provision of § 141.20 of this chapter, to certify that marking of the country of origin on imported articles as required by this part has been accomplished. **[TD 73-175.]**

(b) *Filing of certificates of marking.* The certificates of marking shall be filed in duplicate with the district director, and a sample of the marked merchandise shall accompany the certificate. The district director may waive the production of the marked sample when he is satisfied that the submission of such sample is impracticable.

(c) *Notice of acceptance.* The district director shall notify the importer or actual owner when the certificate of marking is accepted. Such notice of acceptance may be granted on the duplicate copy of the certificate of marking by use of a stamped notation of acceptance. The district director is authorized to spot check the marking of articles on which a certificate has been filed. If a spot check is performed, the approved copy of the certificate, if approval is granted, shall be returned to the importer or actual owner after the spot check is completed.

(d) *Filing of false certificate of marking.* If a false certificate of marking is filed with the district director indicating that goods have been properly marked when in fact they have not been so marked, a seizure shall be made or claim for forfeiture value reported under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). In addition, in cases involving, willful deceit, a criminal case report may be made charging a violation of section 1001, title 18, United States Code, which provides for a fine up to $10,000 and/or imprisonment up to 5 years for anyone who willfully conceals a material fact or uses any document knowing the same to contain any false or fraudulent statement in connection with any matter within the jurisdiction of an agency of the United States.

(e) *Authority to require physical supervision when deemed necessary.* The district director may require physical supervision of marking as specified in § 134.51(c) in those cases in which he determines that such action is necessary to insure compliance with this part. In such cases the expenses of the Customs officer shall be reimbursed to the Government as provided for in § 134.55.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 73-175, 38 FR 17447, July 2, 1973]

§ 134.53 Examination packages.

(a) *Site of marking*—(1) *Customs custody.* Articles (or containers) in examination packages may be marked by the importer at the place where they have been discharged from the importing or bonded carrier or in the public stores.

(2) *Importer's premises or elsewhere.* If it is impracticable to mark the articles (or containers) in examination packages as provided in subparagraph (1) of this paragraph, the merchandise may be turned over to the importer after the amount of duty, estimated to be payable under 19 U.S.C. 1304(c) has been deposited to insure compliance with the marking requirements and the payment of any additional expense which will be incurred on account of Customs supervision. (See § 134.55.) The district director may at his discretion accept the entry bond as security for the requirements of 19 U.S.C. 1304 (c) and (d).

(b) *Failure to export, destroy, or properly mark merchandise in examination packages.* If the articles (or containers) in examination packages are not exported, destroyed, or properly marked by the importer within a reasonable time (not more than 30 days), they shall be sent to general-order stores for disposition in accordance with Part 127 of this chapter, unless covered by a warehouse entry. If covered by a warehouse entry, they shall be sent to the warehouse containing the rest of the shipment for marking prior to withdrawal. **[TD 78-99]**

§ 134.54 Articles released from Customs custody.

(a) *Demand for liquidated damages.* If within 30 days from the date of the notice of redelivery, or such additional period as the district director may allow for good cause shown, the importer does not properly mark or redeliver the merchandise previously released to him, the district director shall demand payment of liquidated damages incurred under the bond in an amount equal to the entered value of the articles not properly marked or redelivered, plus any estimated duty thereon determined at the time of entry. **[TD 79-159.]**

(b) *Failure to petition for relief.* A written petition addressed to the Commissioner of Customs for relief from the payment of liquidated damages may be filed with the district director in accord with Part 172 of this chapter. If a petition for relief from the payment of liquidated damages is not filed or payment of the liquidated damages is not made within a period of 60 days after the demand for payment, or if the liquidated damages are not paid within 60 days after the denial of the petition for relief, the district director shall in accord with Part 172 of this chapter report the matter to the U.S. attorney for collection.

(c) *Relief from full liquidated damages.* Any relief from the payment of the full liquidated damages incurred will be contingent upon the deposit of the marking duty required by section 304(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1304(c)), and the satisfaction of the district director that the importer was not guilty of negligence or bad faith in permitting the illegally marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery of the merchandise.

§ 134.55 Compensation of Customs officers and employees.

(a) *Time for which compensation is charged.* The time for which compensation is charged shall include all periods devoted to supervision and all periods during which Customs officers or employees are away from their regular posts of duty by reason of such assignment and for which compensation to such officers and employees is provided for by law.

(b) *Applicability*—(1) *Official hours.* The compensation of Customs officers and employees assigned to supervise the exportation, destruction, or marking of articles so as to exempt them from the application of marking duties shall be computed in accordance with § 19.5(b) of this chapter when such supervision is performed during a regularly scheduled tour of duty.

(2) *Overtime.* When such supervision is performed by a Customs officer or employee in an overtime status, the compensation with respect to the overtime shall be computed in accordance with § 24.16 of this chapter.

(c) *Expenses included.* In formulating charges for expenses pertaining to supervision of exportation, destruction, or marking, there shall be included all expenses of transportation, per diem allowance in lieu of subsistence, and all other expenses incurred by reason of such supervision from the time the Customs officer leaves his official station until he returns thereto.

(d) *Services rendered for more than one importer.* If the importations of more than one importer are concurrently supervised, the service rendered for each importer shall be regarded as a separate assignment, but the total amount of the compensation, and any expenses properly applicable to more than one importer, shall be equitably apportioned among the importers concerned.

PART 141—ENTRY OF MERCHANDISE

Sec.

141.0 Scope.
141.0a Definitions.

Subpart A—Liability for Duties and Requirement To Enter Merchandise

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141.3 Liability for duties includes liability for taxes.
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Subpart B—Right to Make Entry and Declarations on Entry

141.11 Evidence of right to make entry for importations by common carrier.
141.12 Right to make entry of importations by other than common carrier.
141.13 Right to make entry of abandoned or salvaged merchandise.
141.14 Deceased or insolvent consignees and court-appointed administrators.
141.15 Bond for production of bill of lading.
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Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624. Subpart B also issued under sec. 483, 46 Stat. 721; 19 U.S.C. 1483. Subpart F also issued under sec. 481, 46 Stat. 719; 19 U.S.C. 1481. Subpart G also issued under sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1505. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T. D. 73-175, 38 FR 17447, July 2, 1973, unless otherwise noted.

§ 141.0 Scope.

This part sets forth general requirements and procedures for the entry of imported merchandise, except entries under carnet, and entries for transportation in bond or exportation, for foreign-trade zones, or for trade fairs, which are covered in Parts 114, 18, 146, and 147 of this chapter. More specific requirements and procedures in addition to those in this part are set forth in Parts 143, 144, and 145 of this chapter for consumption, appraisement and informal entries, for warehouse entries, and for mail entries. **[TD 73-175.]**

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.*—"Entry" means that documentation required by section 142.3 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry Summary.*—"Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.*—"Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.*—"Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption.*—"Entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

(g) *Entered for warehouse.*—"Entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

(h) *Entered under a temporary importation bond.*—"Entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

Subpart A—Liability for Duties and Requirement To Enter Merchandise

§ 141.1 Liability of importer for duties.

(a) *Time duties accrue.* Duties and the liability for their payment accrue upon imported merchandise on arrival of the importing vessel within a Customs port with the intent then and there to unlade, or at the time of arrival within the Customs territory of the United States if the merchandise arrives otherwise than by vessel, unless otherwise specially provided for by law.

(b) *Personal debt of importer.* The liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. It may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without such payment.

(c) *Prior claim against importer's estate.* The Government's claim for unpaid duties against the estate of a deceased or insolvent importer has priority over obligations to creditors other than the United States.

(d) *Lien against merchandise.* The liability for duties also constitutes a lien upon the merchandise imported which may be enforced while such merchandise is in the custody or subject to the control of the United States.

(e) *States and their instrumentalities.* Neither the States nor their instrumentalities are entitled to any constitutional exemption from the payment of Customs duties.

(f) *Unordered merchandise.* There shall be no liability for the payment of duties on the part of anyone to whom merchandise is consigned without his authority, if he refuses it. Such merchandise shall be treated as unclaimed (see Part 20 of this chapter). (R.S. 3466, 3467, as amended; 31 U.S.C. 191, 192)

§ 141.2 Liability for duties on reimportation.

Dutiable merchandise imported and afterwards exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States, but this does not apply to the following:

(a) Personal and household effects taken abroad by a resident of the United States and brought back on his return to this country (see § 148.31 of this chapter);

(b) Professional books, implements, instruments, and tools of trade, occupation, or employment taken abroad by an individual and brought back on his return to this country (see § 148.53 of this chapter);

(c) Automobiles and other vehicles taken abroad for noncommercial use (see § 148.32 of this chapter);

(d) Metal boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise (see § 10.7(b), (c), (d), and (e) of this chapter);

(e) Articles exported from the United States for repairs or alterations, which may be returned upon the payment of duty on the value of repairs or alterations at the rate or rates which would otherwise apply to the articles in their repaired or altered conditions (see § 10.8 of this chapter);

(f) Articles exported for exhibition under certain conditions (see § § 10.66 and 10.67 of this chapter);

(g) Domestic animals taken abroad for temporary pasturage purposes and returned within 8 months (see § 10.74 of this chapter);

(h) Articles exported under lease to a foreign manufacturer (see § 10.108 of this chapter); or

(i) Any other reimported articles for which free entry is specifically provided.

§ 141.3 Liability for duties includes liability for taxes.

The importer's liability for duties includes a liability for any internal revenue taxes which attach upon the importation of merchandise, unless otherwise provided by law or regulation.

§ 141.4 Entry required.

Entry, as required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), shall be made of every importation, whether free or dutiable and regardless of value, except for:

(a) The intangibles listed in general headnote 5, Tariff Schedules of the United States (19 U.S.C. 1202); and

(b) Articles specifically exempted by law or regulations from the requirement for entry. (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 141.5 Time limit for entry.

Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing. Merchandise for which timely entry is not made shall be treated in accordance with § 4.37 and Part 127 of this chapter. (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) **[TD 77-12.]**

Subpart B—Right To Make Entry and Declarations on Entry

§ 141.11 Evidence of right to make entry for importations by common carrier.

(a) *Merchandise not released directly to carrier.* Except where merchandise is released directly to the carrier in accordance with paragraph (b) of this section, one of the following types of evidence of the right to make entry shall be filed in connection with the entry of merchandise imported by common carrier:

(1) A bill of lading or air waybill, presented by the holder thereof, properly endorsed when endorsement is required under the law. A nonnegotiable bill of lading, or air waybill, may not be endorsed by the named consignee to give someone else the right to make entry. If the person making entry intends to use the original bill of lading or air waybill to obtain a duplicate bill of lading, duplicate air waybill, or carrier's certificate from the carrier, the exchange shall be made before the entry is filed, and the duplicate bill of lading, duplicate air waybill, or carrier's certificate shall be used to make entry in accordance with subparagraph (3) or (4) of this paragraph. For purposes of this part, the rights of the consignor relating to an air waybill as prescribed by the Warsaw Convention (49 Stat. 3017) shall be protected. **[TD 78-394]**

(2) An extract from a bill of lading or air waybill certified to be genuine by the carrier bringing the merchandise to the port of entry. District directors shall not certify extracts from bills of lading or air waybills. **[TD 78-394]**

(3) A certified duplicate bill of lading or air waybill, with the carrier's certificate being in substantially the following form:

Duplicate Bill Of Lading or Air Waybill Certificate

———————, 19—

The undersigned carrier, bringing the within-described merchandise to this port, hereby certifies that this signed copy of the bill of lading or air waybill is genuine and may be used for the purpose of making Customs entry as provided for in section 484(i), Tariff Act of 1930. **[TD 78-394]**

____
(Name of carrier)

____
(Agent)

(4) A carrier's certificate, which may be executed on the official entry form, on Customs Form 7529, or, in appropriate cases, by means of a rubber-stamped or typewritten combined carrier's certificate and release order with one signature on a copy of the bill of lading, airway bill, shipping receipt, or other comparable document. The rubber-stamped or typewritten certificate shall be in substantially the following form, which may be varied to include any of the qualifications on release shown in § 141.111(d):

Date ———————

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484(h), Tariff Act of 1930. In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

____
(Name of carrier)

____
(Agent)

(5) A blanket carrier's certificate on an appropriately modified Customs Form 7529, covering any or all shipments which will arrive at the port on the carrier's conveyance during the period specified in the certificate.

(6) A shipping receipt or other document presented in lieu of a bill of lading or air waybill shall be accepted as authority for making entry only if it bears a carrier's certificate in accordance with subparagraph (4) of this paragraph, or if entry is made by the actual consignee in person or in his name by a duly authorized agent. **[TD 78-394]**

(b) *Merchandise released directly to carrier.* Where, in accordance with subsection (j) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), merchandise is released from Customs custody (either under immediate delivery procedures in accordance with the provisions of Part 142 of this chapter, or after an entry has been made and estimated duties deposited, where appropriate), to the carrier by whom the merchandise was brought to the port, the delivery of the merchandise by the carrier to the person making entry and depositing the estimated duties shall be deemed to be the certification required by subsection (h), section 484, Tariff Act of 1930. Customs responsibility under this optional entry procedure is limited to the collection of duties, and constitutes no representation whatsoever regarding the right of any person to obtain possession of the merchandise from the carrier. Consequently, no Customs official shall be liable to any person in respect to the delivery of merchandise released from Customs custody in accordance with the provisions of this paragraph. (Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 141.12 Right to make entry of importations by other than common carrier.

When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficient evidence of the right to make entry.

§ 141.13 Right to make entry of abandoned or salvaged merchandise.

Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, air waybill, certified duplicate bill of lading or air waybill, or carrier's certificate, shall produce evidence satisfactory to the district director of their right to act. **[TD 78-394]**

§ 141.14 Deceased or insolvent consignees and court-appointed administrators.

The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he produces a duly endorsed bill of lading or air waybill, a carrier's certificate, or a duplicate bill of lading or air waybill, executed in accordance with subsections (h) or (i) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), showing him to be the consignee for Customs purposes. **[TD 78-394]**

§ 141.15 Bond for production of bill of lading or air waybill.

(a) *When appropriate.* If the person desiring to make entry is unable to present a bill of lading, air waybill, or other evidence of right to make entry in accordance with § 141.11, the district director may accept a bond for the production of a bill of lading or air waybill under the provisions of section 484(c), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)). The bond shall be for the production of a bill of lading or air waybill, unless the person making entry intends to produce a carrier's certificate or certified duplicate bill of lading or air waybill. In that case, no bond is required because section 484(c) does not apply to entries made on a carrier's certificate or certified duplicate bill of lading or air waybill. If the district director is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading or air waybill, he shall request authority to do so from the Commissioner of Customs. **[TD 78-394]**

(b) *Form.* The bond shall be on Customs Form 7581 and shall run in favor of the district director personally and as district director.

(c) *Documents acceptable to satisfy bond.* A bond given for the production of a bill of lading or air waybill shall be considered as canceled upon production of a bill of lading or air waybill, and may be considered as satisfied but shall not be canceled upon the production of a carrier's certificate or certified duplicate bill of lading or air waybill. **[78-394]**

§ 141.16 Disposition of documents.

(a) *Bill of lading or air waybill.* When the return of the bill of lading or air waybill to the person making entry is requested in accordance with section 484(j), Tariff Act of 1930, as amended (19 U.S.C. 1484(j)), the district director shall obtain a receipt showing sufficient data from the bill of lading or air waybill to completely identify it and enable the auditor to verify the production of proper evidence of the right to make entry. The receipt shall also show any freight charges and weights that appear on the bill of lading or air waybill. The district director shall then return the bill of lading or air waybill to the person making entry with a notation thereon to the effect that entry has been made for the merchandise. **[TD 78-394]**

(b) *Other documents.* When any of the other documents specified in § § 141.11(a) (2) through (6) is used in making entry, it shall be retained by the district director as evidence that the person making entry is authorized to do so.

§ 141.17 Entry by nonresident consignee.

A nonresident consignee has the right to make entry, but any bond taken in connection with the entry shall have a resident corporate surety or, when a carnet issued under Part 114 of this chapter is used as an entry form, an approved resident guaranteeing association.

§ 141.18 Entry by nonresident corporation.

A nonresident corporation (i.e., one which is not incorporated within the Customs territory of the United States or in the Virgin Islands of the United States) shall not enter merchandise for consumption unless it:

(a) Has a resident agent in the State where the port of entry is located who is authorized to accept service of process against such corporation; and

(b) Files a bond having a resident corporate surety to secure the payment of any increased and additional duties which may be found due.

§ 141.19 Declaration of entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute the declaration specified in section 485(a), Tariff Act of 1930, as amended (19 U.S.C. 1485(a)) on:

(1) The entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, or

(2) The rewarehouse or the bonded manufacturing warehouse entry.

The declaration need not be under oath. * * *

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of the facts.*—When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry or entry summary executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.*—When entry is made in a consignee's name by an agent who does not meet the qualifications in paragraph (b)(1) of this section either:

(i) A declaration of the consignee on Customs form 3347-A shall be filed with the entry documentation or entry summary or

(ii) A charge for the production of the declaration shall be made against the entry bond. **[TD 79-221.]**

(3) *Nominal consignee.* A nominal consignee who makes entry in his own name is not considered an agent within the purview of section 485(c), Tariff Act of 1930, as amended (19 U.S.C. 1485(c)), and he shall execute a declaration in accordance with paragraph (a) of this section.

(c) *Books, newspapers, and periodicals.* In the case of successive importations of books, magazines, newspapers, and periodicals within the scope of section 485(b), Tariff Act of 1930, as amended (19 U.S.C. 1485(b)), one declaration filed at the time of arrival of the first importation will be sufficient. (Secs. 485, 486, 46 Stat. 724, as amended, 725, as amended; 19 U.S.C. 1485, 1486)

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) *Filing*—(1) *Declaration of owner.*—A consignee in whose name an entry summary for consumption, warehouse, or temporary importation under bond is filed, or in whose name a rewarehouse entry or a manufacturing warehouse entry is made, and who desires, under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from statutory liability for the payment of increased and additional duties shall declare at the time of the filing of the entry summary or entry documentation, as provided in section 141.19(a), that he is not the actual owner of the merchandise, furnish the name and address of the owner, and file with the district director within 90 days from the time of entry (see sec. 141.68) a declaration of the actual owner of the merchandise acknowledging that the actual owner will pay all additional and increased duties. The declaration of owner shall be filed on Customs form 3347. **[TDs 74-212, 79-221.]**

(2) *Bond of actual owner.*—If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by him under the single-entry bond which he filed in connection with the entry documentation and/or entry summary, or under his term bond against which the entry and/or entry summary is charged, he shall file a bond of the actual owner on Customs form 7601 with the district director within 90 days from the time of entry. **[TDs 74-212, 79-221.]**

(b) *Appropriate party to execute and file.* Neither the declaration of the actual owner nor the bond of the actual owner shall be accepted unless executed by the actual owner or his duly authorized agent, and filed by the nominal consignee or his duly authorized agent. **[TD 74-212.]**

(c) *Nonresident actual owner.* If the actual owner is a nonresident, the actual owner's declaration shall not be accepted as compliance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), unless there is filed therewith the owner's bond on Customs Form 7551 or 7553, with a resident corporate surety thereon, in lieu of a bond on Customs Form 7601.

(d) *Filing of declaration of owner for purposes other than relief from liability.* Nothing in this section shall be construed to prevent the nominal consignee from filing the actual owner's declaration without the superseding bond for purposes other than relief from statutory liability for the payment of increased and additional duties under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)). (Secs. 485, 623, 46 Stat. 724, as amended, 759, as amended; 19 U.S.C. 1485, 1623) **[TD 74-212.]**

Subpart C—Powers of Attorney

§ 141.31 General requirements and definitions.

(a) *Limited or general power of attorney.* A power of attorney may be executed for the transaction by an agent or attorney of a specified part or all the Customs business of the principal.

(b) *Sealed instruments.* If a power of attorney is for the execution of sealed instruments, it shall be under seal.

(c) *Minor agents.* A power of attorney to a minor shall not be accepted.

(d) *Definitions of resident and nonresident.* For the purposes of this subpart, "resident" means an individual who resides within, or a partnership one or more of whose partners reside within, the Customs territory of the United States or the Virgin Islands of the United States, or a corporation incorporated in and jurisdiction within the Customs territory of the United States or in the Virgin Islands of the United States. A "nonresident" means an individual, partnership, or corporation not meeting the definition of "resident."

§ 141.32 Form for power of attorney.

Customs Form 5291 may be used for giving power of attorney to transact Customs business. If a Customs power of attorney is not on a Customs Form 5291, it shall be either a general power of attorney with unlimited authority or a limited power of attorney as explicit in its terms and executed in the same manner as a Customs Form 5291. The following is an example of an acceptable general power of attorney with unlimited authority:

KNOW ALL MEN BY THESE PRESENTS, THAT

______________________________,
(Name of principal)

______________________________,
(State legal designation, such as corporation, individual, etc.) residing at ______ ______________________ and doing business under the laws of the State of ______________, hereby appoints

____
(Name, legal designation, and address)

as a true and lawful agent and attorney of the principal named above with full power and authority to do and perform every lawful act and thing the said agent and attorney may deem requisite and necessary to be done for and on behalf of the said principal without limitation of any kind as fully as said principal could do if present and acting, and hereby ratify and confirm all that said agent and attorney shall lawfully do or cause to be done by virtue of these presents until and including ________________, (date) or until notice of revocation in writing is duly given before that date.

Date ________________, 19—.

____
(Principal's signature)

§ 141.33 Alternative form for noncommercial shipment.

An individual (but not a partnership, association, or corporation) who is not a regular importer may appoint another individual as his unpaid agent for Customs purposes by executing a power of attorney applicable to a single noncommercial shipment by writing, printing, or stamping on the invoice, or on a separate paper attached thereto, the following statement:

____ of
(Name)

____
(Address)

is hereby authorized to execute, as an unpaid agent who has knowledge of the facts, pursuant to the provisions of section 485(f), Tariff Act of 1930, as amended, the consignee's and owner's declarations provided for in section 485 (a) and (d), Tariff Act of 1930, as amended, and to enter on my behalf or for my account the goods described in the attached invoice which contains a true and complete statement of the facts concerning the shipment.

Date ________________, 19—.

____
(Signature of importer)

____
(Address)

§ 141.34 Duration of power of attorney.

Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the district director. All other powers of attorney may be granted for an unlimited period.

§ 141.35 Revocation of power of attorney.

Any power of attorney shall be subject to revocation at any time by written notice given to and received by the district director.

§ 141.36 Nonresident principals in general.

A power of attorney filed by a nonresident principal shall not be accepted unless the agent designated thereby is a resident and is authorized to accept service of process against such nonresident.

§ 141.37 Additional requirements for nonresident corporations.

A power of attorney executed by a nonresident corporation shall be supported by filing the following documents which, except for the certificate of incorporation, shall be certified as correct by the secretary of the corporation under its corporate seal:

(a) A certificate from the proper public officer of the country showing the legal existence of the corporation;

(b) A copy of that portion of the charter or articles of incorporation which shows the scope of the business of the corporation and the governing body thereof; and

(c) One of the following proofs of the grantor's authority to grant power of attorney for the corporation:

(1) If the authority of the grantor is derived from the charter or articles of incorporation, a copy of that portion thereof which contains such authority; or

(2) If the authority of the grantor is derived from the governing body, a copy of the bylaws or other documents which authorizes the governing body to designate others to appoint agents or attorneys, together with a copy of the resolution, minutes, or other document by which the governing body conferred the authority on the grantor.

§ 141.38 Resident corporations.

A power of attorney shall not be required if the person signing Customs documents on behalf of a resident corporation is known to the district director to be the president, vice president, treasurer, or secretary of the corporation. When a power of attorney is required for a resident corporation, it shall be executed by a person duly authorized for such purpose, and shall be supported by a certificate showing the authority of such person to execute the power of attorney. The certificate of authority shall be executed under seal by the secretary, assistant secretary, or other corporate officer, but not by the same person executing the power of attorney, and shall be in the following form: **[TD 77-288.]**

Certificate

I, ________________, certify that I am the ________________ of ________________, organized under the laws of the State of ________________; that ________________, who signed this power of attorney on behalf of the donor, is the ________________ of the said corporation; and that said power of attorney was duly signed, sealed, and attested for and in behalf of said corporation, by authority of its governing body as the same appears in a resolution of the Board of Directors passed at a regular meeting held on the ________ day of ________________, now in my possession or custody. I further certify that the resolution is in accordance with the articles of incorporation and bylaws of said corporation.

In witness whereof, I have hereunto set my hand and affixed the seal of said corporation, at the city of ________ ________ this ________ day of ________________, 19______.

In the event that the resident corporation is a single officer corporation, where such corporations are permitted by state law, the single officer shall indicate that fact on the power of attorney, instead of completing the certificate of authority.

§ 141.39 Partnerships.

(a) *General.* A power of attorney granted by a partnership shall state the names of all members of the partnership. One member of a partnership may execute a power of attorney in the name of the partnership for the transaction of all its Customs business, except the execution of sealed instruments. If the power of attorney is for the execution of sealed instruments, it shall be signed and sealed by each partner.

(b) *Change in partners.* When a new firm is formed by a change in membership, no power of attorney filed by the antecedent firm shall thereafter be recognized for any Customs purpose.

§ 141.40 Trusteeships.

A trustee may execute a power of attorney for the transaction of Customs business incident to the trusteeship.

§ 141.41 Surety on Customs bonds.

Powers of attorney to sign as surety on Customs bonds are subject to the requirements set forth in Part 113 of this chapter. [TD 74-227.]

§ 141.42 Protests.

Powers of attorney to file protests are subject to the requirements set forth in § 174.3 of this chapter.

§ 141.43 Delegation to subagents.

(a) *Resident principals*. Except as otherwise provided for in paragraph (c) of this section, the holder of a power of attorney for a resident principal cannot appoint a subagent except for the purpose of executing shippers' export declarations. A subagent so appointed cannot delegate his power.

(b) *Nonresident principals*. Except as otherwise provided for in paragraph (c) of this section, an agent who has power of attorney for a nonresident principal may execute a power of attorney delegating authority to a subagent only if the original power of attorney contains express authority from the principal for the appointment of a subagent or subagents. Any subagent so appointed must be a resident authorized to accept service of process in accordance with § 141.36.

(c) *Customhouse brokers*. A power of attorney executed in favor of a licensed customhouse broker may specify that the power of attorney is granted to the broker to act through any of its licensed officers or authorized employees as provided in Part 111 of this chapter.

§ 141.44 Designation of Customs districts in which power of attorney is valid.

Unless a power of attorney specifically authorizes the agent to act thereunder in all Customs districts, the name of each district in which the agent is authorized to act thereunder shall be stated in the power of attorney. The power of attorney shall be filed with any district director, in a sufficient number of copies for distribution to each district in which the agent is to act, unless exempted from filing by § 141.46. The district director with whom a power of attorney is filed, irrespective of whether his district is named therein, shall approve it, if it is in the correct form and the provisions of this subpart are complied with, and forward any copies intended for other districts to the appropriate districts.

§ 141.45 Certified copies of power of attorney.

When a power of attorney which is not limited to transactions in a specific Customs district has been filed and it is desired to use it in another district, the district director with whom it is filed, upon request of the district director of the other district or upon request of the person or firm which executed the power, shall forward a certified copy thereof to the district director of the second district. Any expense in connection with the preparation of such documents shall be borne by the parties in interest.

§ 141.46 Power of attorney retained by customhouse broker.

Before transacting Customs business in the name of his principal, a customhouse broker is required to obtain a valid power of attorney to do so. He is not required to file the power of attorney with a district director. Customhouse brokers shall retain powers of attorney with their books and papers, and make them available to representatives of the Department of the Treasury as provided in subpart C of Part 111 of this chapter.

Subpart D—Quantity of Merchandise To Be Included in an Entry

§ 141.51 Quantity usually required to be in one entry.

All merchandise arriving on one vessel or vehicle and consigned to one consignee shall be included in one entry, except as provided in § 141.52.

§ 141.52 Separate entries for different portions.

Separate entries may be made for different portions of all the merchandise arriving on one vessel or vehicle and consigned to one consignee under any of the following circumstances, if the district director is satisfied that there will be no prejudice to the revenue or to the efficient conduct of Customs business:

(a) Each portion of a consolidated shipment addressed to one consignee for various ultimate consignees may be entered separately under the procedure set forth in § 141.54.

(b) One or more of the enclosed packages in a packaged package may be entered separately under any appropriate form of formal or informal entry. No entry is required for an enclosed package which contains merchandise unconditionally free of duty and not exceeding $250 in value. A packed package is an outer package in which are contained inner packages addressed for delivery to two or more different persons, as described in section 484(f), Tariff Act of 1930, as amended (19 U.S.C. 1484(f)). Each outer container shall be marked to indicate that it is a packed package.

(c) The consignee desires to enter different portions under different forms of entry, for transportation to different ports of entry, or for warehousing in separate warehouses.

(d) Appraisement is being withheld upon merchandise of the class or kind for which a separate entry is tendered.

(e) The several portions of the consignment for which separate entries are tendered are covered by separate bills of lading.

(f) The consignment consists of different classes of merchandise which are to be processed by different Customs commodity specialist teams.

(g) The consignment contains merchandise subject to entry under bonds given to assure accounting for final disposition, such as a temporary importation bond.

(h) The consignment consists of different importations which arrived under a consolidated entry for immediate transportation made pursuant to § 18.11(g) of this chapter.

(i) A special application is submitted to the Commissioner of Customs with the recommendation of the district director concerned and is approved by the Commissioner.

§ 141.53 Procedure for separate entries.

When separate entries for one consignment are made in accordance with § 141.52 (b) through (i), the following procedures shall apply:

(a) The entries shall be presented simultaneously when practicable.

(b) A separate consignee's declaration shall be filed for each entry.

(c) Each entry shall cover whole packages or not less than 1 ton of bulk merchandise, except when a portion of the merchandise is entered under a temporary importation bond in accordance with schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202).

(d) When separate entries are made for merchandise covered by a single bill of lading or air waybill, the provisions of § 141.54 shall be complied with, except that the endorsement on the bill of lading or air waybill required by § 141.54(b) shall read as follows: **[TD 78-394]**

> As portions of the within-described merchandise will be covered by separate entries, the undersigned consignee expressly waives the right granted by section 484(j), Tariff Act of 1930, as amended, to have this bill of lading or air waybill returned.

§ 141.54 Separate entries for consolidated shipments.

When separate entries for consolidated shipments are made in accordance with § 141.52(a), the following procedures shall apply except where the merchandise is released directly to the carrier in accordance with § 141.11(b):

(a) *Deposit of evidence of right to make entry.* The nominal consignee of a consolidated shipment covering merchandise for various ultimate consignees who desire to make separate entries shall deposit with the district director evidence of the right to make entry as set forth in § 141.11(a), and such evidence shall be permanently retained by the district director.

(b) *Waiver of right to have bill of lading or air waybill returned.* If a bill of lading or air waybill is filed, it shall contain the following endorsement signed by the consignee named therein: **[TD 78-394]**

> As the within-described merchandise belongs to various ultimate consignees who desire ake separate entries therefor, the undersigned consignee thereof hereby expressly waives the right granted by section 484(j), Tariff Act of 1930, as amended, to have this bill of lading or air waybill returned.

(c) *Certificate by nominal consignee.* Except when an authority to make entry for a portion of a consolidated shipment is executed on the entry form in the space provided, at the time of depositing the bill of lading, air waybill, or other document, the named consignee shall produce a certificate prepared and signed by him for each portion of the shipment for which separate entry is desired. The authority to make entry carried by such a certificate may be transferred by endorsement. The certificate shall be in the following form: **[TD 78-394]**

Port of ________________

________________, 19—

Authority To Make Entry

Of merchandise imported at ________________ on ________________, 19—, per ________________, from ________________ shipped by ________________, consigned to ________________, endorsed to ________________, covered by[1] ________________ dated ________________, 19—, at ________________ on file with the district director of Customs at ________________.

Marks *Numbers* *Description*

....

....

....

(We) (I) ________________________, the consignee(s) in the above-mentioned document covering merchandise for various ultimate consignees, hereby authorize ________________ or order to make Customs entry for the above described merchandise.

____

(Consignee(s))

(d) *Verification of certificate.* When a certificate on a separate document as described in paragraph (c) of this section is presented, it shall be compared with the supporting document and after being initialed by the ministerial clerk shall be returned to the consignee for transmittal to the person who will make entry. When an entry is received having executed in the space provided thereon an authority to make entry for a portion of a consolidated shipment, such authority shall be compared with the supporting document.

§ 141.55 Single entry for shipments arriving under one transportation entry.

Except in the case of merchandise subject to a quantitative or tariff-rate quota, district directors are authorized to accept one entry summary for consumption or for warehouse for the entire quantity of merchandise covered by an entry for immediate transportation after the arrival of any part of the merchandise at the port of destination or at a place of deposit outside the port as may be authorized in accordance with section 18.11(c) of this chapter. **[TD 79-221.]**

§ 141.56 Single entry summary for multiple transportation entries consigned to the same consignee.

(a) *Requirement.*—District directors may accept one entry summary for consumption or for warehouse for merchandise covered by multiple entries for immediate transportation, subject to the requirements of section 142.17(a) of this chapter, provided the merchandise covered by each immediate transportation entry is released at the port of destination under a separate entry, in accordance with section 142.3 of this chapter.

(b) *Limitation.*—A single entry summary for multiple transportation entries shall not be accepted for any merchandise listed in section 142.17(b) of this chapter.

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[1] Insert "bill of lading," "air waybill," "certified duplicate bill of lading," "certified duplicate air waybill," "carrier's certificate," or "shipping receipt."

(c) *Information on the entry summary.*—Each entry for immediate transportation shall be identified separately on the entry summary by the immediate transportation entry number and the corresponding entry number.

Subpart E—Presentation of Entry Papers

§ 141.61 Completion of entry and entry summary documentation

(a) *Preparation.*—(1) Entry and entry summary documentation shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium. The entry summary shall be signed by the importer (see sec. 101.1(k)). Entries, entry summaries, and accompanying documentation shall be on the appropriate forms specified by the regulations and shall set forth clearly all required information. All copies shall be legible.

(2) An importer may omit from the entry summary for consumption, Customs form 7501, the warehouse entry summary, Customs form 7502, or the warehouse withdrawal for consumption, Customs form 7505 or 7519, the marks and number previously provided for packages released or withdrawn. **[TD 79-221.]**

(b) *"Signing of the entry".*—The signing of the consignee's declaration on the entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, in accordance with section 141.19, shall be regarded as the "signing of the entry" required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)). For a rewarehouse or a bonded manufacturing warehouse entry, the signing of the consignee's declaration on the entry documentation shall satisfy 19 U.S.C. 1484(d). **[TD 79-221.]**

(c) [Reserved] **[TDs 75-209, 79-221.]**

(d) *Customs form 5101.*—An Entry Record, Customs form 5101, shall be prepared by the importer, in triplicate, with carbon paper left in, and shall be filed with each consumption or warehouse entry summary and with each appraisement, vessel/aircraft repair, or drawback entry. The importer number shall be reported as follows: **[TDs 74-72, 79-221.]**

(1) *Generally.*—Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs form 5101, or the importer number may be entered in the space provided for the importer and the word "same" may be entered in the space provided for the ultimate consignee.

(2) *Exception.*—In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs form 5101; and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.*—If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number also shall be reported on Customs form 5101. In this case, the importer of record shall file, or shall have filed previously, a Customs form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form.—(i) Where form provides space*—(A) *Single invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the appraisement entry. Customs Form 7500; the entry summary, Customs Form 7501 or 7502; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506; or the record of vessel/aircraft foreign repair or equipment purchase, Customs Form 226, in the space provided.

(B) *Multiple invoices.* If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the importer may, at his option (1) list each invoice separately on the appropriate form listed under paragraph (e)(1)(i)(A) of this section and for each class or kind of merchandise within each invoice subject to a separate statistical reporting number, report the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated (TSUSA); or (2) combine the information for each class or kind of merchandise and report it under one statistical reporting number for all invoices. When consolidating information from several invoices under one reporting number, a worksheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(2)(ii) of this section shall be attached to the appropriate form. **[TDs 73-312, 79-221, 81-260.]**

(ii) *Where form does not provide space.*—In addition to the information required by paragraph (e)(1)(i) of this section, statistical information for which spaces are not provided on the appropriate form, shall be shown as follows:

(A) The name, the abbreviated designation or four digit code of the country of registry (flag) of the vessel expressed in terms of annex 8, TSUSA, shall be placed in the block on the entry document for the name of the importing vessel or carrier.

(B) The notation "related" or "not related", as appropriate, shall be placed at the top of columns 3, 4, and 5 of Customs forms 7501, 7502, 7505, 7506, and 7521, and in the top right hand portion of Customs form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(2) The transaction value, charges, and equivalent value shall be listed on Customs form 7519 in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of each statistical value and charge.

(3) In the case of related parties, if the district director is satisfied that the person filing the form cannot reasonably ascertain or estimate the equivalent port of exportation value (EPEX) that would exist had the transaction occurred between parties who were not related, he may permit that person to use the entered value adjusted, if necessary, to the port of exportation value, as provided for in subparagraph (xv), general statistical headnote 1(a), TSUSA, or any other value the district director considers appropriate. However, if the transaction value between related parties is higher than the entered value, the transaction value shall be used.

(e)(2) *Responsibility.*—The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section. If the information required by subparagraph (xiv), (xv), and (xvi) general statistical headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation, as follows:

(i) Except for merchandise entered for warehouse, the documentation shall be produced within 50 days after the entry summary (or the entry, if there is no entry summary) is required to be filed.

(ii) If merchandise is entered for warehouse, the documentation shall be produced within 2 months after the date of withdrawal, except that if an invoice is part of the documentation, the invoice shall be produced within 50 days after the entry summary for warehouse is required to be filed.

The district director may grant a reasonable extension of time to produce the required documentation for good cause shown. (See sec. 141.91(d) for bond requirements relating to failure to produce an invoice.)

(3) *Estimates of statistical information.*—When the person filing the form estimates any of the values or charges, as provided for in subparagraph (v), general statistical headnote 1(b), TSUSA, except Canadian rail and truck charges, he shall place either "(estimate)", "(est)", or ("E") after the amount of each value or charge.

(4) *Rejection of form.*—The district director shall reject a form for failure to provide required statistical information if the information is omitted or if the information provided clearly appears on its face, or is known to the Customs officer, to be erroneous.

(5) *Penalty procedures: when not invoked.*—Penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA. **[TD 79-221.]**

(f) *Value of each invoice.*—(1) *Single invoice.*—If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers a single invoice, the invoice information shall be restated to show:

(i) Gross amount of the invoice;

(ii) Deduction of the aggregate amount of any nondutiable charges involved in the amount;

(iii) Further deduction of the aggregate of any deductions from the invoice values to make entered values; and

(iv) Addition to the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to the invoice values to make entered values. The final amount in the summary computations shall represent the aggregate of the entered values of all the merchandise covered by the invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs forms 7501 and 7502, and in the same general location on Customs forms 7505, 7506, 7519, and 7521. **[TDs 75-307, 79-221.]**

(2) *Multiple invoices.* (1) If the importer or his agent elects the first option specified in paragraph (e)(1)(i)(B) of this section, the information required to be restated by paragraph (f)(1) of this section for a single invoice shall be restated for each invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs Form 7501 and 7502, and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

(ii) If the importer or his agent elects the second option specified in paragraph (e)(1)(i)(B) of this section, the information required to be restated by paragraph (f)(1) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(iii)The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered value.

(iv) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise, from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet. **[TD 79-221, 81-260.]**

§ 141.62 Place and time of filing.

(a) *Place.*—An application for immediate delivery and entry, entry summary, or withdrawal documentation shall be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released. **[TDs 77-241, 79-221.]**

(b) *Time.*

(1) *Normal business hours.*

(i) Except as provided in paragraph (b)(2) of this section, an application for immediate delivery or entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty in accordance with section 101.6(f) of this chapter.

(ii) Except as provided in paragraph (b)(2) of this section, entry summary or withdrawal documentation shall be filed when the customhouse is open for the general transaction of business, as provided in section 101.6 of this chapter.

(2) *Overtime services.*

(i) *Generally.*—Except as provided in paragraph (b)(2)(ii) of this section, an application for immediate delivery or entry documentation may be filed when the customhouse is not open for the general transaction of Customs business and no regular tour of duty has been established; and entry summary or withdrawal documen-

tation may be filed when the customhouse is not open for the general transaction of business, if—

(A) The person desiring to transact business has applied for and received authorization for overtime services on a reimbursable basis, as provided for in § 24.16 of this chapter, and

(B) Overtime services of Customs officers are available.

(ii) *Quota-class merchandise.*—Overtime shall not be authorized for the presentation of entry summary documentation which serves as both the entry and entry summary or withdrawal documentation, for quota-class merchandise without headquarters authorization. If headquarters authorization is granted, the time of delivery of the entry summary or withdrawal documentation, with the estimated duties attached, shall be the time of presentation for quota purposes. However, if an entry summary or withdrawal for quota-class merchandise is delivered inadvertently during overtime hours without headquarters authorization, the time of presentation for quota purposes shall be the opening of business on the next business day. [TD 79-221.]

§ 141.63 Submission of entry summary documentation for preliminary review.

(a) *Before arrival of merchandise.*—Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time before arrival of the merchandise as may be fixed by the district director—

(1) If the entry summary documentation will be filed at time of entry to serve as both the entry and the entry summary, as provided in section 142.3(b) of this chapter, or

(2) In the case of quota-class merchandise, if the entry summary for consumption will be presented at time of entry, as provided in section 132.11a of this chapter.

Estimated duties shall not be accepted before arrival of the merchandise within the port limits.

(b) *After arrival of merchandise.*—Entry summary documentation may be submitted at the customhouse for preliminary review without estimated duties attached, within such time after arrival of quota-class merchandise as may be fixed by the district director, if the entry summary for consumption will be presented at the opening of the quota period, as provided in section 132.12(a) of this chapter. Estimated duties shall not be accepted before the opening of the quota period. [TD 79-221.]

§ 141.64 Review and correction of entry and entry summary documentation.

Entry and entry summary documentation shall be reviewed before acceptance to ensure that all entry and statistical requirements are complied with and that the indicated values and rates of duty appear to be correct. If any errors are found, the entry and the entry summary documentation shall not be considered to have been filed in proper form and shall be returned to the importer for correction. [TD 79-221.]

§ 141.65 [Reserved.] [TD 79-221.]

§ 141.66 Bond for missing documents.

Unless otherwise prescribed in these regulations, an appropriate bond may be given for the production of any required document which is not available at the time of entry. (See § 141.91 for the procedure applicable to incomplete or missing invoices.) (Secs. 490, 623, 46 Stat. 726, as amended, 759, as amended; 19 U.S.C. 1490, 1623)

§ 141.67 Recall of documentation.

The importer may recall the entry and entry summary documentation at any time before the effective time of entry set forth in section 141.68. The entry shall be considered canceled, and documents shall be returned to the importer. [TD 79-221.]

§ 141.68 Time of entry.

(a) *When entry documentation is filed without entry summary.*—When the entry documentation is filed in proper form without an entry summary, the "time of entry" shall be:

(1) The time the appropriate Customs officer authorizes the release of the merchandise or any part of the merchandise covered by the entry documentation, or

(2) The time the entry documentation is filed, if requested by the importer on the entry documentation at the time of filing, and the merchandise already has arrived within the port limits, or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

(b) *When entry summary serves as entry and entry summary.*— When an entry summary serves as both the entry documentation and entry summary, in accordance with section 142.3(b) of this chapter, the time of entry shall be the time the entry summary is filed in proper form with estimated duties attached.

(c) *When merchandise is released under the immediate delivery procedure.*— The time of entry of merchandise released under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

(d) *Quota-class merchandise.*— The time of entry for quota-class merchandise shall be the time of presentation of the entry summary or withdrawal for consumption in proper form, with estimated duties attached, as provided in section 132.11a of this chapter.

(e) *When merchandise has not arrived.*— Merchandise shall not be authorized for release, nor shall an entry or an entry summary which serves as both the entry and entry summary be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade.

(f) *Informal mail entry.*— The time of entry of merchandise under an informal mail entry, Customs form 3419 or 5110-A, is the time the preparation of the entry documentation by a Customs employee is completed.

(g) *Withdrawal from warehouse for consumption.*— The time of entry of merchandise withdrawn from warehouse for consumption (the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor) is when:

(1) Customs form 7505 is executed in proper form and filed together with any related documentation required by these regulations to be filed at the time of withdrawal, and

(2) Estimated duties, if any, required to be paid at the time of withdrawal have been deposited.

Unless the requirements of this paragraph and section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of estimated duties, if any, are completed within 60 days from the date of presentation of Customs form 7505, the request for withdrawal shall be considered abandoned.

(h) *Appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.*— The time of entry of merchandise under an appraisement entry, Customs form 7500, an informal entry, Customs form 5119-A (or other form prescribed in section 143.23 or elsewhere in the chapter for use as an informal entry), a combined entry for rewarehouse and withdrawal for consumption, Customs form 7519, or an A.T.A. carnet issued under part 114 of this chapter, shall be the time the specified form is executed in proper form and filed, together with any related documents required by these regulations, and estimated duties, if any, have been deposited. If merchandise eligible for informal entry is released under a special permit for immediate delivery and Customs form 5119-A or 7501 is filed in accordance with section 142.23 of this chapter, the time of entry shall be the time Customs form 5119-A or 7501 is filed in proper form, together with any related documents required by this chapter, and estimated duties, if any, have been deposited. However, if merchandise eligible for informal entry is released under the entry documentation set forth in section 142.3(a) of this chapter and Customs form 5119-A or 7501 is filed in accordance with section 142.23, the time of entry shall be in accordance with paragraph (a) of this section. (Sec. 315, 46 Stat. 695 as amended; 19 U.S.C. 1315) **[TD 79-221.]**

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect at time of entry, as specified in section 141.68, except as otherwise specifically provided for by Executive Order, and in the following cases:

(a) *Warehouse entries.*—Merchandise entered for warehouse is dutiable at the rates in effect at the time withdrawal from warehouse for consumption is made in accordance with section 141.68(f). **[TD 79-221.]**

(b) *Merchandise entered for immediate transportation.* Merchandise which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation, if entered for consumption at the port designated by the consignee or his agent in such transportation entry without having been taken into custody by the district director for general order under section 490, Tariff Act of 1930, as diate transportation entry was accepted amended (19 U.S.C. 1490), shall be subject to the rates in effect when the immediate transportation entry was accepted at the port of original importation.

(c) *Overcarried merchandise returned to port of entry.* If merchandise which has been entered for consumption, but not yet released from Customs custody, is removed from the port or place of intended release because of overcarriage, inaccessibility, strike, act of God, or unforeseen contingency, and is returned to such port or place within 90 days after removal, such merchandise shall be subject to the rates in effect at the time of the original entry, provided the merchandise is identified with the original entry by the usual Customs examination and by any documentary evidence as to its movement between its removal and return which the district director may reasonably require. A new entry shall be required, unless the original entry has not been liquidated and the consignee at the time of original importation and at the time of return is the same person. (Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

Subpart F—Invoices

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in these regulations. Except in the case of installment shipments provided for in § 141.82, an invoice shall not represent more than one distinct shipment of merchandise by one consignor to one consignee by one vessel or conveyance. **[TD 78-53, TD 79-221.]**

§ 141.82 Invoice for installment shipments arriving within a period of 10 days.

(a) *One invoice sufficient.*— Installments of a shipment covered by a single order or contract and shipped from one consignor to one consignee may be included in one invoice if the installments arrive at the port of entry by any means of transportation within a period of not to exceed 10 consecutive days. **[TD 75-27.]**

(b) *Preparation of invoice.*— The invoice shall be prepared in the manner provided for in this subpart and, when practicable, shall show the quantities, values, and other invoice data with respect to each installment, the date of shipment of each installment, and the car number or other identification of the importing conveyance in which it was shipped.

(c) *Pro forma invoice.*— If the required invoice is not filed with the first entry of an installment series, a pro forma invoice shall be filed with each entry made before the required invoice is produced, and in accordance with section 141.91 a bond shall be given, or charge against a term bond made, for the production of the required invoice. Liquidated damages will accrue in the case of each entry if more than 6 months expire without the production of an invoice for such entry.

(d) *Informal entry.*— Any bona fide installment valued at not over $250 may be entered on an informal entry in accordance with subpart C of Part 143 of this chapter, in which case such installment need not be considered in connection with invoice requirements for the balance of the series.

(e) *Special summary invoice.*— The provisions of this section shall not apply if a special summary invoice is required by § 141.83(b). **[TD 78-53.]**

§ 141.83 Type of invoice required.

(a) *Special Customs invoice.*— A special Customs invoice (Customs Form 5515) shall be filed for each shipment of merchandise (1) which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision when all free entry documents and evidence required to establish the exemption from duty are not produced at the time of filing the entry summary), and (2) which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with section 152.21 of this chapter. However, a special Customs invoice is not required for merchandise which is excepted from the requirements for both a special Customs invoice and a commercial invoice by paragraph (c) of this section. In the case of merchandise entered under a conditionally free provision which is ordinarily subject to a rate of duty dependent on value, and which is not exempted from invoice requirements under paragraph (c)(4) of this section because the free entry documents and evidence are not produced at the time of entry, the bond obligation to produce a special Customs invoice shall be canceled without the payment of liquidated damages if such documents and evidence are produced within 6 months after entry. **[TD 79-221.]**

(b) *Special summary invoice.*—A special summary invoice shall be presented for each shipment of merchandise described in § 141.89(b). The district director may waive production of a special Customs invoice (Customs Form 5515) if a special summary invoice is required. **[TD 78-53.]**

(c) *Commercial invoice.*—(1) A commercial invoice shall be filed for each shipment of imported merchandise not required by paragraph (a) to have a Special Customs Invoice and not exempted by paragraph (d) from both a Special Customs Invoice and a commercial invoice. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by sections 141.86 through 141.89, and substantiate the statistical information required by sec. 151.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The district director may accept a copy of a required commercial invoice in place of the original. A copy, other than a photostatic or photography copy, shall contain a declaration by the foreign seller, the shipper or the importer that it is a true copy. **[TDs 78-53, 79-221.]**

(d) *Special Customs or commercial invoice not required.*— A Special Customs Invoice or a commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in section 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by section 141.61(e). The merchandise subject to the foregoing requirements is as follows: **[TDs 78-53, 79-221.]**

(1) Merchandise having an aggregate purchase price or value, as specified in paragraph (a) of this section, of $500 or less.

(2) Merchandise not intended for sale or any commercial use in its imported condition or any other form, and not brought in on commission for any person other than the importer.

(3) [Reserved.]

(4) [Reserved.]

(5) Merchandise returned to the United States after having been exported for repairs or alteration under item 806.20 or 806.30, Tariff Schedules of the United States (19 U.S.C. 1202).

(6) Merchandise shipped abroad, not delivered to the consignee, and returned to the United States.

(7) Merchandise exported from continuous Customs custody within 6 months after the date of entry.

(8) Merchandise consigned to, or entered in the name of, any agency of the U.S. Government.

(9) Merchandise for which an appraisement entry is accepted.

(10) Merchandise entered under a temporary importation bond or a permanent exhibition bond.

(11) Merchandise provided for in section 465 or 466, Tariff Act of 1930 (19 U.S.C. 1465 or 1466), which pertain to certain equipment, repair parts, and supplies for vessels.

(12) Merchandise imported as supplies, stores, and equipment of the importing carrier and subsequently made subject to entry pursuant to section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446).

(13) Ballast (not including cargo used for ballast) landed from a vessel and delivered for consumption.

(14) Merchandise, whether privileged or nonprivileged, resulting from manipulation or manufacture in a foreign trade zone.

(15) Screenings contained in bulk importations of grain or seeds.

§ 141.84 Photocopies of invoice for separate entries of same shipment.

(a) *Entries at one port.* If by reason of accident or short shipment a portion of the quantity covered by one invoice fails to arrive, or if for any other reason only a portion of the quantity covered by one invoice is entered under one entry, a photocopy of the original special Customs invoice or commercial invoice used in connection with the first entry, covering the quantity to be entered under another entry, may be used in connection with the subsequent entry of any portion of the merchandise not cleared under the first entry.

(b) *Entries from foreign-trade zone at one port.* A photocopy of the invoice filed with the first entry for consumption from a foreign-trade zone of a portion of the merchandise shown on the invoice will not be required for any subsequent entry for consumption from that zone at the same port of a portion of any merchandise covered by such invoice, if a pro forma invoice is filed and identifies the entry first made and the invoice then filed.

(c) *Entries at different ports.* When portions of a single shipment requiring a special Customs invoice or a commercial invoice are entered at different ports, the importer may submit to the district director where the original invoice or latest photocopy of the original invoice is on file, two photocopies of the latest of such invoices to be certified as to merchandise previously received, and the official seal affixed thereto.

(d) *Pro forma invoice.* In a case in which a portion of the shipment is entered at the first port on a pro forma invoice, an entry at a subsequent port may be made by means of a new pro forma invoice which may cover only the merchandise then entered.

(e) *Photocopy to satisfy bond for invoice.* A properly certified photocopy of a special Customs invoice or a commercial invoice presented within 6 months after the date of entry may be accepted to cancel the bond given for the production of a special Customs invoice or commercial invoice.

§ 141.85 Pro forma invoice.

A pro forma invoice submitted in accordance with any provision of this chapter shall be in substantially the following form:

Pro Forma Invoice

Importers Statement Of Value Or The Price Paid In The Form Of An Invoice

Not being in possession of a special or commercial seller's or shipper's invoice I request that you accept the statement of value or the price paid in the form of an invoice submitted below:

Name of shipper
address ____________________

Name of seller
address ____________________
Name of consignee
address ____________________
Name of purchaser
address ____________________

The merchandise (has) (has not) been purchased or agreed to be purchased by me.

The prices, or in the case of consigned goods the values, given below are true and correct to the best of my knowledge and belief, and are based upon: (Check basis with an "X")

(a) The price paid or agreed to be paid (—) as per order dated ____________

(b) Advices from exporter by letter (—) by cable (—) dated ____________

(c) Comparative values of shipments previously received (—) dated ____________.

(d) Knowledge of the market in the country of exportation (—) ____________

(e) Knowledge of the market in the United States (if U.S. Value) (—) ____________.

(f) Advices of the District Director of Customs (—) ____________

(g) Other (—) ____________.

A	B	C	D	E	F	G
Case marks numbers	Manufacturer's Item No. symbol or brand	Quantities and full description	Unit purchase price (currency)	Total purchase price (currency)	Unit foreign value	Total foreign value

Check which of the charges below are, and which are not included in the prices listed in columns "D" and "E":

Amount	Included	Not included
Packing		
Cartage		
Inlandfreight		
Wharfage and loading abroad		
Lighterage		
Ocean freight		
U.S. duties		
Other charges (identify by name and amount)		
Total		

Country of origin ____________.

If any other invoice is received, I will immediately file it with the District Director of Customs.

____
(Signature of person making invoice)

____
(Title and firm name)

Date

§ 141.86 Contents of invoices and general requirements.

(a) *General information required by Tariff Act.* Each invoice of imported merchandise, except the Special Customs Invoice (Customs form 5515) (see para. (j) of this section), shall set forth the following information:

(1) The port of entry to which the merchandise is destined;

(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

(3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, and symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transac-

tions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

(7) The kind of currency, whether gold, silver, or paper;

(8) All charges upon the merchandise, itemized by name and amount including freight, insurance, commission, cases, containers, coverings, and cost of packing; and if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price, and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and **[TDs 73-312, 79-221.]**

(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise.

(b) *Nonpurchased merchandise shipped by other than manufacturer.* Each invoice of imported merchandise shipped to a person in the United States by a person other than the manufacturer and otherwise than pursuant to a purchase or agreement to purchase shall set forth the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

(c) *Merchandise sold in transit.* If the merchandise is sold on the documents while in transit from the port of exportation to the port of entry, the original invoice reflecting the transaction under which the merchandise actually began its journey to the United States, and the resale invoice or a statement of sale showing the price paid for each item by the purchaser, shall be filed as part of the entry, entry summary, or withdrawal documentation. If the original invoice cannot be obtained, a pro forma invoice showing the values and transaction reflected by the original invoice shall be filed together with the resale invoice or statement. **[TD 79-221.]**

(d) *Invoice to be in English.* The invoice and all attachments shall be in the English language, or shall have attached thereto an accurate English translation containing adequate information for examination of the merchandise and determination of duties.

(e) *Packing list.* Each invoice shall state in adequate detail what merchandise is contained in each individual package.

(f) *Weights and measures.* If the invoice or entry does not disclose the weight, gage, or measure of the merchandise which is necessary to ascertain duties, the consignee shall pay the expense of weighing, gaging, or measuring prior to the release of the merchandise from Customs custody.

(g) *Discounts.* Each invoice shall set forth in detail, for each class or kind of merchandise, every discount from list or other base price which has been or may be allowed in fixing each purchase price or value.

(h) *Numbering of invoices and pages.*

(1) *Invoices.* When more than one invoice is included in the same entry, each invoice with its attachments shall be numbered consecutively by the importer on the bottom of the face of each page, beginning with No. 1.

(2) *Pages.* If the invoice or invoices filed with one entry consist of more than two pages, each page shall be numbered consecutively by the importer on the bottom of the face of each page. The page numbering shall begin with No. 1 for the first page of the first invoice and continue in a single series of numbers through all the invoices and attachments included in one entry.

(3) *Both invoices and pages.* When applicable, both the invoice number and the page number shall be shown at the bottom of each page. For example, if an entry covers one invoice of one page and a second invoice of two pages, the numbering at the bottom of the pages shall be as follows:

Inv. 1, p. 1.
Inv. 2, p. 2.
Inv. 2, p. 3.

(i) *Information may be on invoice or attached thereto.* Any information required on an invoice by any provision of this subpart may be set forth either on the invoice or on an attachment thereto.

(j) *Special Customs Invoice.*—Each Special Customs Invoice, Customs form 5515, required by section 141.83(a) shall set forth the following information:

(1) Names and addresses of seller, consignee, and buyer (if other than consignee);

(2) Origin of goods;

(3) Terms and conditions of sale, payment, and discount;

(4) Currency used, and exchange rate (whether fixed or agreed);

(5) Date order was accepted for purchased goods;

(6) Marks and numbers on shipping packages, number of packages; full description of goods, and quantity;

(7) Home market unit price, invoice unit price, and invoice totals;

(8) An explanation if the production of the goods involved furnishing goods or services to the seller and the value is not included in the invoice price, if previously requested by the district director as provided for in section 141.88;

(9) Packing costs, ocean or international freight charges, domestic freight charges, insurance costs, and other costs;

(10) Declaration of seller/shipper (or agent). **[TD 79-221.]**

§ 141.87 Breakdown on component materials.

Whenever the classification or appraisement of merchandise depends on the component materials, the invoice shall set forth a breakdown giving the value, weight, or other necessary measurement of each component material in sufficient detail to determine the correct duties.

§ 141.88 Cost of production statement.

When the district director determines that information as to the cost of production or constructed value is necessary in the appraisement of any class or kind of merchandise, he shall so notify the importer, and thereafter invoices of such merchandise shall contain a verified statement by the manufacturer or producer as to the cost of production or constructed value, as defined in section 402a(f) or 402(d), Tariff Act of 1930, as amended (19 U.S.C. 1402(f) or 1401a(d)).

§ 141.89 Additional information for certain classes of merchandise.

(a) Invoices for the following classes of merchandise shall set forth the additional information specified: **[TDs 75-42, 75-239, 78-53.]**

Aluminum and alloys of aluminum classifiable under items 618.02, 618.04, 618.06, or 618.10, Tariff Schedules of the United States (19 U.S.C. 1202) (T.D. 53092, 55977, 56143)—Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Ball or roller bearings classifiable under item 680.35, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 68-306)—(1) Type of bearing (i.e., whether a ball or roller bearing); (2) if a roller bearing, whether a spherical, tapered, or other than a spherical or tapered bearing; (3) whether a combination bearing (i.e., a bearing containing both ball and roller bearings, etc.); and (4) if a ball bearing (not including ball bearing with integral shafts or parts of ball bearings), whether or not radial, the following: (a) Outside diameter of each bearing; (b) net weight of each bearing; and (c) whether or not a radial bearing (the definition of radial bearing is, for Customs purposes, an antifriction bearing primarily designed to support a load perpendicular to shaft axis).

Beads (T.D. 50088, 55977)—(1) The length of the string, if strung; (2) the size of the beads expressed in millimeters; (3) the material of which the beads are composed, i.e., ivory, glass, imitation pearl, etc.

Braids, nonelastic, and other nonelastic braided materials suitable for making or ornamenting headwear, classificable under item 703.80 or 703.85, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 49501, 52020, 52114, 55977)—A statement as to whether or not the article has been bleached or colored.

Colors, dyes, stains and related products classifiable under the provisions of schedule 4, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), except item 406.80 (T.D. 53593, 53688, 56223)—The specifications set forth in "Schedule A" of § 152.42(c) of this chapter are required to be furnished with each invoice of these products on separate sheets of paper under the conditions which follow and with the exceptions noted:

(a) The information is not required for second and successive shipments of identical merchandise of the same name and strength if a reference is given to the date and the port of entry of the first shipment.

(b) The information specified in items 10 through 15 is required only when the Schultz number, item 7, the colour index number, item 8, and U.S. standard number, item 9, are not given.

(c) The following is substituted for items 4 and 5:

4. Name(s) under which sold in country of production.

5. Name(s) of comparable American made product with name of U.S. manufacturer (if none or unknown, so state).

Copper, articles classifiable under the provisions of schedule 6, part 2C, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 45878, 50158, 55977)—A statement of the weight of articles of copper and a statement of percentage of copper content by weight of articles dutiable on their copper content.

Copper bearing ores and concentrates classifiable under items 602.25, 602.30, 602.31, 603.50, 603.55, or 603.65, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 45878, 50158, 55977)—Statement as to the weight of the article and the weight of the copper content.

Cotton fabrics classifiable under the following items of the Tariff Schedules of the United States (19 U.S.C. 1202); schedule 3, part 1A—Cotton: items 301.60 thru 301.98, and items 302.—, and 303.20; schedule 3, part 3A—Woven fabrics of cotton; all items except item 332.10 and 332.40; schedule 3, part 6A—Handkerchiefs; items 370.24 thru 370.68; schedule 3, part 6B—Mufflers, etc.; item 372.15; schedule 3, part 6C—Hosiery; item 374.40, schedule 3, part 6E—Underwear; item 378.15 (T.D. 49803, 55977)—(1) Marks on shipping packages; (2) Numbers on shipping packages; (3) Date of acceptance of the order by the seller; (4) Customer's call number, if any; (5) Manufacturer's marks, numbers, or symbols under which the merchandise is sold in the home market; (6) Exact width of the merchandise; (7) Detailed description of the merchandise; trade name, if any; whether bleached, unbleached, printed, dyed, or colored; if composed of cotton and other materials, state chief value first and given percentage (value) of each component; (8) Number of single threads per square inch (All ply yarns must be counted in accordance with the number of single threads contained in the yarn; to illustrate, a cloth containing 100 two-ply yarns in 1 square inch must be reported as 200 single threads); (9) Exact weight per square yard, in ounces; (10) Average yarn number (Use this formula:

Number of single threads per square inch × 24/Number of ounces per square yard × 35 = Average yarn number);

(11) Yarn size or sizes in the warp; (12) Yarn size or sizes in the filling; (13) Number of colors or kinds (different yarn sizes or materials) in the filling; (14) How the cloth was woven (if on plain loom without attachment, indicate (plain); if with eight or more harnesses (0/8H), if with Jacquard (Jacq), if with Swivel (Swiv), if with Lappet (Lpt)). Customs Form 5519 is acceptable for furnishing the additional information required above.

Cotton raw—See § 151.82 of this chapter for additional information required on invoices.

Cotton waste (T.D. 50044)—(1) The name by which the cotton waste is known, such as "cotton card strips"; "cotton comber waste"; "cotton lap waste"; "cotton silver waste"; "cotton roving waste"; "cotton fly waste"; etc.: (2) Whether the length of the staple of the cotton from which any cotton card strips covered by the invoice were made is less than 1 3/16 inches or is 1 3/16 inches or more; (3) Whether the length of the staple of the cotton from which any cotton comber waste covered by the invoice was made is less than 1-3/16 in or is 1-3/16 inches or more.

Dairy products from France, the United Kingdom, West Germany, Luxembourg, Ireland, the Netherlands, Denmark, Italy, and Belgium, classifiable under schedule 1, part 4, subparts A, B, C, and D, and item 184.75, Tariff Schedules of the United States (19 U.S.C. 1202)—(1) In the case of cheese, the generic name of the cheese or, if processed, grated, or powdered, the name or type of cheese from which it was derived, and in the case of other dairy products, the name and/or description of the product which corresponds to the description of the product as it is set forth in the Common Customs Tariff of the European Communities; and (2) the 6-digit code number which corresponds to the description for the product in the Common Customs Tariff of the European Communities and is published from time to time in the *Official Journal of the European Communities* in matters pertaining to the export refund.

Earthenware or crockeryware composed of a nonvitrified absorbent body (including white granite and semiporcelain earthenware and cream-colored ware, stoneware, and terra cotta, but not including common brown, gray, red, or yellow earthenware), embossed or plain; common salt-glazed stoneware; stoneware or earthenware crucibles; Rockingham earthenware; china, porcelain, or other vitrified wares, composed of a vitrified nonabsorbent body which, when broken, shows a vitrified, vitreous, semi-vitrified, or semivitreous fracture; and bisque or parian ware (T.D. 53236)—(1) If in sets, the kinds of articles composing each kind of set, and the quantity of each kind of article in each set in the shipment; (2) the exact maximum diameter, expressed in inches, of each size of all plates in the shipment; (3) the unit value for each style and size of plate, cup, saucer, or other separate piece in the shipment.

Fish or fish livers imported in airtight containers classifiable under schedules 1, part 3C, Tariff Schedules of the United States (19 U.S.C. 1202) (T.D. 50724, 49640, 55977)—(1) Statement whether the articles contain an oil, fat, or grease which has had a separate existence as an oil, fat, or grease; (2) The name and quantity of any such oil, fat, or grease.

Flax, hemp, and ramie fabrics and articles classifiable under the following items of the Tariff Schedules of the United States (19 U.S.C. 1202), 335.80, 335.90, 355.55, 356.25, 356.70, 356.80, 363.35, 366.30, 366.33, 366.36, 366.48, 366.81, 370.72, 370.76, or 370.80, and tablecloths, table scarves, and table doilies classifiable under items 366.51, or 366.84 (T.D. 50083, 55977, 56503)—(1) Customer's call number, if any; (2) Manufacturer's name and the manufacturer's marks, numbers, or symbols under which the merchandise is old in the home market; (3) Exact width of the merchandise if in the piece, otherwise the size; (4) If composed of cotton and other materials, state chief value first and give percentage (value) of each component. State also the finish of the fabric or article, e.g., "loom state," "bleached," "commercial or vat dyed"; (5) Actual number of threads contained in the fabric per square inch, in condition exported. Each thread is counted as one whether or not such thread contains two or more single strands of yarn twisted to make a complete thread. To illustrate, a cloth containing 100 two-ply yarns per square inch must be reported as 100 threads; (6) Exact weight per square yard, in ounces; (7) Whether "hand hemmed," "machine hemmed," "unhemmed," or "in piece." Customs Form 5519 is acceptable for furnishing the additional information required above.

Footwear; classifiable under schedule 7, part 1A, Tariff Schedules of the United States (T.D. 56254, 56297)—

(1) The importer's number (if any)

(2) The manufacturer's number under which the merchandise is sold in the home market.

(3) A detailed description of the merchandise.

(4) Category as listed below:

(a) Huaraches.

(b) McKay—sewed footwear.

(c) Moccasins.

(d) Turn or turned footwear.

(e) Welt footwear.

(f) Footwear with molded soles laced to uppers.

(g) Slippers.

(h) Soled moccasins.

(i) Cement footwear.

(j) Soft sole footwear.

(k) Stitchdown footwear.

(l) Footwear with soles vulcanized to uppers or with soles simultaneously molded and attached to uppers.

(m) Other footwear than listed (a) to (l).

(5) Materials of sole.

(6) Material of chief value of sole.

(7) Materials of upper.

(8) Material of chief value of upper.

(9) Material of chief value of shoe. If the shoe is composed essentially of rubber, state the percent by value of material and percent by value of synthetic rubber (if any).

(10)(a) Percentage of weight of entire shoe for fibers.

(b) Percentage of weight of entire shoe for rubber.

(c) Percentage of weight of entire shoe for plastics.

(11) Percentage of area of materials of exterior surface of upper.

(12) Gender as listed below:

(a) Footwear for men.

(b) Footwear for youths and boys.

(c) Footwear for women.

(d) Footwear for misses.

(e) Footwear for children.

(f) Footwear for infants.

(13) Type as listed below:

(a) Athletic footwear.

(b) Work footwear.

(c) Ski boots.

(d) Casual footwear.

(e) Other types of footwear.

(14) Height of footwear:

(a) Oxford height.

(b) Other height.

(15) The number of pairs of each number shipped.

(16) The unit price per pair in the currency of purchase.

(17) The total value for quantity invoiced. Discount, if any, may be deducted at foot of invoice.

(18) If such (the same) or similar merchandise is sold, at wholesale, for home consumption, the current unit price in home currency.

Customs Form 5523 may be used for furnishing the additional information required above.

Fur products and furs (T.D. 53064)—(1) Name or names (as set forth in the Fur Products Name Guide (16 CFR 301.0) of the animal or animals that produced the fur, and such qualifying statements as may be required pursuant to section 7(c) of the Fur Products Labeling Act (15 U.S.C. 69e(c)); (2) a statement that the fur product contains or is composed of used fur, when such is the fact; (3) a statement that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact; (4) a statement that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact; (5) name and address of the manufacturer of the fur product; (6) name of the country of origin of the furs or those contained in the fur product.

Glassware and other glass products classifiable under schedule 5, part 3C, Tariff Schedules of the United States (19 U.S.C. 1202, when imported in sets (T.D. 53079, 55977)—Statement of the separate value of each component article in the set.

Grain or grain and screenings (T.D. 51284)—Statement on Customs invoices for cultivated grain or grain and screenings that no screenings are included with the grain, or, if there are screenings included, the percentage of the shipment which consists of screenings commingled with the principal grain.

Hats or headwear classifiable under item 702.37 or 702.40, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 52114, 55977)—Statement as to whether or not the article has been bleached or colored.

Iron or steel, articles of, classifiable under schedule 6, part 2B, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 53092, 55977)—Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Iron oxide (T.D. 49989, 50107)—For iron oxide to which a reduced rate of duty is applicable, a statement of the method of preparation of the oxide, together with the patent number, if any.

Jewelry (T.D. 51678)—(1) Design or motif; (2) component material of chief value; (3) whether or not the metal in the article is plated with platinum, gold, or silver, or is colored with gold lacquer.

Lumber, rough, dressed, or worked, classifiable under schedule 2, part 1B, Tariff Schedules of the United States, and dutiable on the basis of board measure (T.D. 50498, 51906, 55977)—Quantity in board feet of the rough lumber before dressing.

Machine parts (T.D. 51616)—Statement specifying the kind of machine for which the parts are intended, or if this is not known to the shipper, the kind or kinds of machines for which the parts are suitable.

Madeira embroideries (T.D. 49988)—(1) With respect to the materials used, furnish: (a) Country of production; (b) width of the material in the piece; (c) name of the manufacturer; (d) kind of material, indicating manufacturer's quality number; (e) landed cost of the material used in each item; (f) date of the order; (g) date of the invoice; (h) invoice unit value in the currency of the purchase; (i) discount from purchase price allowed, if any; (2) with respect to the finished embroidered articles, furnish: (a) Manufacturer's name, design number, and quality number; (b) importer's design number, if any; (c) finished size; (d) number of embroidery points per unit of quantity; (e) for each item, the cost of embroidery labor and the cost of sewing, if any, per unit of quantity; (f) total for overhead and profit added in arriving at the price or value of the merchandise covered by the invoice.

Metal-Working Machine Tools classifiable under items 674.32 and 674.35, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 70-1)—Type of machine tools in accordance with the following definitions:

Numerically controlled machines are machines whose motions are controlled by devices such as tape, computers, or punched cards.

Drilling machines are machines designed for the primary purpose of cutting an initial hole in a workpiece using a rotation tool.

Radial drilling machines consist of a base, vertical cylindrical column, radial arm, and spindle headstock. The radial arm supports the spindle headstock which can be positioned at varying distances from the column; the arm can be moved up or down on the column and rotated around the column.

Upright single-spindle drilling machines consist of a base, table, vertical column, and spindle head. The spindle head is mounted on the column and moves only in the vertical direction. The worktable and/or base is located below the spindle.

Milling machines are machines designed for the primary purpose of removing metal by multiple tooth cutters mounted on rotating arbors or spindles.

Profile and duplicating milling machines consist of any milling machine equipped with a tracing device for controlling the path of the milling cutter.

Knee-type milling machines consist of a base, vertical column, knee, horizontal table, and spindle. A spindle driving the cutter is mounted horizontally or vertically in or on the column. A horizontal movable table which holds the workpiece is mounted on a knee, which projects from the column. The knee can be raised or lowered on the column.

Bed-type milling machines consist of a base (bed), vertical column, horizontal, or vertical spindle and table. The table moves horizontally on the bed. The spindle is fixed or moves vertically on the column.

Boring machines are machines designed for the primary purpose of enlarging or finishing an existing hole in a workpiece by means of a rotating single-point tool.

Vertical boring machines, including vertical turret lathes consist of one or two ram (or turret) heads mounted on a cross rail supported by a column or columns. The cutting tool or tools traverse against the work as the work revolves on a circular table. One or two horizontally opposed side heads are also provided.

Combination boring, drilling, and milling machines, horizontal spindle, consist of a vertical column mounted on a solid bed or movable base. The column supports a horizontally mounted headstock containing the spindle that feeds various tooling into the workpiece. The work is held on a movable table supported by the bed or is mounted on floor plates. Feed motions of the headstock and/or table are longitudinal, transverse, and vertical.

Combination boring, drilling, and milling machines, vertical spindle, consist of a vertical column mounted on a solid bed or movable base. The column supports a vertically mounted headstock containing the spindle that feeds various tooling into the workpiece. The work is held on a movable table supported by the bed or is mounted on floor plates. Feed motions of the headstock and/or table are longitudinal, transverse, and vertical.

Metal-cutting machine tools are metal-working machine tools which shape or surface-work metal by removing metal either in the form of chips, dust, swarf, or similar forms, or by electrical or chemical erosion techniques.

Engine lathes consist of a bed, headstock, tailstock, and carriage. The workpiece is held between a center on the tailstock and an appropriate work-holding device on the headstock spindle. The tool is secured to a cross slide which is mounted on a carriage that moves longitudinally along the bed of the machine.

Turret lathes consist of a bed, headstock, cross slide, and turret. The workpiece is held in the collet, chuck, face plate, or fixture which is attached to the spindle. The tools on the turret are positioned and fed into the workpiece.

Single-spindle automatic bar or chucking machines consist of a bed, headstock, cross slides, and turret. The workpiece is held in the collet, chuck, face plate, or fixture which is attached to the spindle. The tools on the turret are positioned and fed into the work-piece. All machining motions are preselected and are automatically controlled.

Multiple-spindle automatic bar or chucking machines have two or more drive spindles in order that two or more workpieces can be rotated simultaneously. Automatic units are designed to hold the workpiece in each of a number of spindle collets or chucks, which index clockwise from station to station in order to present the workpiece successively to a series of cutting tools. All machining motions are preselected and are automatically controlled.

Grinding machines are machines other than honing or lapping machines designed for the primary purpose of removing metal from a workpiece with abrasives.

External cylindrical grinders consist of a base, table, headstock, footstock, and wheelhead. The table is mounted on the base. The headstock and footstock are mounted on the table and are used to support and rotate the workpiece. The rotating abrasive wheel is mounted on the wheelhead spindle. The wheel is fed against the rotating workpiece.

Internal cylindrical grinders consist of a base, table wheelhead, and headstock. The table is mounted on the base. The headstock is fixed to the base. The wheelhead is mounted on the table. The rotating abrasive wheel is mounted on the wheelhead spindle and is fed into the workpiece bore which is also rotating.

Surface (flat) grinders consist of a base, table, column, and wheelhead. The table is mounted on the base. The wheelhead is attached to the column. The axis of the wheelhead spindle is horizontal. The workpiece which is mounted on the table reciprocates under the rotating abrasive wheel which is mounted on the wheelhead spindle.

Sawing machines are designed primarily for parting or cutting-off operations by a tool referred to as a saw, which could be in the form of a blade, band, or disc.

Electrical discharge machines are machines designed to remove metal by means of an electrical discharge spark erosion.

Metal-forming machine tools are metal-working machine tools other than metal-cutting machine tools.

Punching and shearing machines pierce, blank, notch, or shear workpieces by utilizing a power-driven ram to force punches or blades through work that is supported by the table of the machine.

Mechanical presses, open back inclinable consist of a base (legs), "C" frame, and ram. The C frame is mounted on a pivot point connected in the base (legs). The ram is mounted in the C frame. The principal identifying characteristic of the press is its ability to tilt back on its base (legs).

Needlework tapestries classifiable under schedule 3, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 50369, 55977)—A statement of the separate cost of each fiber used.

Newsreel films (T.D. 44703, 44938, 55977)—(1) Statement of footage and title of each subject; (2) declaration of shipper, cameraman, or other person with knowledge of the facts identifying the films with the invoice and stating that the basic films were to the best of his knowledge and belief exposed abroad and returned for use as newsreel; (3) declaration of importer that he believes the films entered by him are the ones covered by the preceding declaration and that the films are intended for use as newsreel.

Oils or products of such oils, classifiable under schedule 4, part 8A, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to a specific rate of duty (T.D. 49640, 55977)—State if the article is derived from coconut, palm-kernel, palm oil, or other.

Paper and paper products (other than books, newspapers, and periodicals which are not fashion periodicals) bearing printing of any kind, whether or not the printing was done by a lithographic process (T.D. 53056)—Statement of the process employed in printing the paper or paper products.

Screenings or scalpings of grains or seeds (T.D. 51096)—(1) Whether the commodity is the product of a screening process; (2) if so, whether any cultivated grains have been added to such commodity; (3) if any such grains have been added, the kind and percentage of each.

Sugar in liquid form, and articles composed in part of beet or cane sugar (T.D. 49400)—(1) Statement for each lot of sugar in liquid form showing the percentage by weight of total soluble solids (or Brix) and the percentage by weight of total sugars; (2) statement for each kind or class of articles composed in part of cane or beet sugar showing the percentage by weight of total sugars derived from sugar beets or sugarcane.

Sugar, manufactured, articles containing 10 percent or more by weight of, as defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), (T.D. 49867, 50106)—(1) If it is conceded that the component material of chief value in an article is manufactured sugar, a statement to that effect should be made on the invoice with a statement of the percentage of total sugars in the finished product; (2) if manufactured sugar is not conceded to be the component material of chief value, the invoice must be accompanied by a statement in the following form containing the data indicated therein in accordance with the appended instructions:

United States Customs Service

Information as to commodities containing 10 percent or more by weight of manufactured sugar, as defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), for use of U.S. Customs authorities.

Name of manufacturer ________________
Address ____

1. Kind and brand of product shipped to United States: ________________

2. Quantity produced in one manufacturing lot or batch (A): __________

3. Sugar used in producing one lot or batch:

Kind of manufactured sugar	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

4. Other materials used in producing one lot or batch:

Kind	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

I certify that the above information is correct.

______________ ______________
(Signature)

Date ______________

____
(Title or position)

Instructions for compiling data to be shown on form:

1. Describe the product in terms used on invoices, giving name, brand, quality, number, etc. Use a separate form for each kind.

2. Show quantity produced in one typical batch or lot, recently manufactured, as to which cost records have been maintained.

3. Manufactured sugar is defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), as follows: The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane, which is not to be, and, which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids and except also sirup of cane juice produced from sugarcane grown in the continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners, sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

4. It is preferable to show each kind of material used in addition to manufactured sugar. Several materials of relatively insignificant value may be grouped together, such as "Flavoring materials," "Coloring materials," "Seasoning materials," or "All other."

A. Show unit in pounds, as well as total quantity.

B. "First Cost" is the full cost of the material laid down at the manufacturing plant, at current domestic prices, without any deduction for any drawback or refund of import duties which may have been allowed or may be allowable. The amounts of any drawback or refund of import duties which have been allowed or which are allowable by reason of exportation should be stated separately.

C. "Additional costs" include all costs of storing, examining, handling, and preparing, up to the point where the materials are ready to be combined in the manufacturing process. Manufacturing costs and general expenses, occurring thereafter, should not be included, nor should profit.

D. "Total cost" is the total of "first cost" ex-factory and "Additional costs."

5. When the additional information outlined above has been furnished once by an importer with an invoice of a recognized brand or brands of merchandise, it need not be furnished again for shipments entered by him for consumption or for warehous-

ing at the same port in the same calendar year under the same brand name, provided the formula or method of manufacture of the brand has not changed. An invoice not accompanied by such additional information should identify the last shipment entered at that port by the importer for which such additional information was furnished. If the additional information was furnished in connection with any entry at one port, and the importer can secure from the district director at such port a certified copy of the invoice and additional information there filed, he may file to fulfill the additional invoice requirement elsewhere. However, district directors shall not furnish copies of invoices except to, or with the consent of, and at the expense of the importer or his authorized agent.

Textile fiber products (T.D. 55085)—(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product; (2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content; (3) The name, or other identification issued and registered by the Federal Trade Commission, of the manufacturer of the product or one or more persons subject to section 3 of the Textile Fiber Products Identification Act (15 U.S.C. 70a) with respect to such product; (4) The name of the country where processed or manufactured.

Tobacco (including tobacco in its natural state) (T.D. 44854, 45871)—(1) Specify in detail the character of the tobacco in each bale by giving (a) Country and province of origin, (b) year of production, (c) grade or grades in each bale, (d) number of carrots or pounds of each grade if more than one grade is packed in a bale, (e) the time when, place where, and from whom purchased, (f) price paid or to be paid for each bale or package, or price for the vega or lot if purchased in bulk, or if obtained otherwise than by purchase state the actual market value per bale; (2) If an invoice covers or includes bales of tobacco which are part of a vega or lot purchased in bulk, the invoice must contain or be accompanied by a full description of the vega or lot purchased; or if such description has been furnished with a previous importation, the date and identity of such shipment; (3) Packages or bales containing only filler leaf shall be invoiced as filler; when containing filler and wrapper but not more than 35 percent of wrapper, shall be invoiced as mixed; and when containing more than 35 percent of wrapper, shall be invoiced as wrapper.

Toys classifiable under item 737.25 or 737.30, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 49859, 50107, 52160, 55977)—Specify the actual overall height of each stuffed figure of an animate object not having a spring mechanism.

Watch movements, and time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, having 17 or less jewels, and dutiable under schedule 7, part 2E, Tariff Schedules of the United States (19 U.S.C. 1202), but not including movements designed for clocks and so stated on the invoice unless and until such time as the Commissioner of Customs issues a decision applicable to such movements (T.D. 54286, 55977, 56468)—For all commercial shipments of such articles, there shall be required to be shown on the invoice, or on a separate sheet attached to and constituting a part of the invoice, such information as will reflect with respect to each group, class, category, type, or model of instrument in the shipment, the following:

(A) The commercial description (ebauche calibre number and ligne size) and style of each class of watch movement, time-keeping mechanism, device, or instrument covered by the invoice.

(B) The name of the manufacturer or assembler of the exported articles, and also the name of the supplier when the manufacturer or assembler is not the supplier.

(C) As to watch movements, time-keeping mechanisms, devices, or instruments, after the complete instruments were first assembled:

	Yes	*No*
(1) Were they tested or observed at different temperatures?	....	....
(2) Were they tested or observed for uniformity in rate as the mainspring runs down?	....	....
(3) Were corrections made to eliminate or reduce the differences in rates revealed by the tests in (1) and (2)?	....	....
(4) Were they tested or observed for 24 hours or more in more than two positions and was there a prescribed tolerance of not more than 15 seconds of perfect time in 24 hours in such positions?	....	....
(5) Were they marked with a number of position adjustments different from the number of positions (at least three) in which so tested or observed and in which a tolerance of not more than 15 seconds of perfect time in 24 hours was met?	....	....

(D) If the answers are "yes" to questions (3) or (5), under (C) immediately above, and the instruments are marked unadjusted, or are marked with a lesser number of position adjustments than the number of positions in which tested for 24 hours or more, and in which a tolerance of not more than 15 seconds of perfect time in 24 hours was met, explain in detail. However, when the foregoing information has been filed once directly with the United States Customs Service, Washington, D.C. 20229, in quadruplicate, with one additional copy for each port of entry at which entries may be filed, invoices covering shipments of that item to the ports named in the original statement or in subsequent statements filed for additional ports need only identify the item and the statement already filed. This information will then be acceptable until the facts about the item change, at which time a new statement is necessary.

Wool, boiled classifiable under item 307.30 or 307.18, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 69-236). A certification in the following form signed by a government official of the country of exportation having actual knowledge of the pertinent facts:

I hereby certify that the wool in the shipment described below consists of wool fibers recovered by means of a sulfuric acid boil from (raw) (tanned) (raw and tanned) sheepskin scrap.

Date ________________

____
(Signature)

____
(Title or position)

Number of bales ________________________

Marks and numbers ________________________

Other identification ________________________

Wool products, except carpets, rugs, mats, and upholsteries, and wool products made more than 20 years before importation (T.D. 50388, 51019)—(1) The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (a) wool; (b) reprocessed wool; (c) reused wool; (d) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (e) the aggregate of all other fibers; (2) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter; and (3) the name of the manufacturer of the wool product, except when such product consists of mixed wastes, residues, and similar merchandise obtained from several suppliers or unknown sources.

Wool and hair—See § 151.62 of this chapter for additional information required on invoices.

Woven fabrics of man-made fibers, colored, classifiable under item 338.30, Tariff Schedules of the United States (19 U.S.C. 1202): (1) Whether the merchandise is yarn dyed, and (2) The thread count per inch (treating ply yarns as single threads) in the wrap and in the filling.

(b) *Special Summary Steel Invoice.* (1) A Special Summary Steel Invoice (Customs form 5520) shall be filed in duplicate at the time of filing the entry summary for each shipment which is determined by the district director to have an aggregate purchase price of $10,000 or over or, if from a contiguous country, of $5,000 or over, including all expenses incident to placing the merchandise in condition packed ready for shipment to the Untied States, and which contains any of the articles of steel listed in paragraph (b) (2) of this section. In addition to the information required by section 141.86, the Special Summary Steel Invoice shall set forth the following: **[TDs 78-53, 79-79, 79-221, 81-291.]**

(A) The date price terms were agreed upon (the date of agreement on the final sales price for the shipment).

(B) Description and cost of extras (a description of, and the additional price charged for, extras, other than width and length, with extras described in terms understood in the United States market).

(C) American Iron and Steel Institute (AISI) category.

(D) Base price (the base price for each steel category on which the total sales price was based).

(E) The name of the producer, the importer, and the price paid by the first unrelated purchaser in the United States, if that price is available at the time of filing the entry summary. One or more continuation sheets may be used to supply this information, if necessary. **[TD 79-221.]**

(2) The following articles of steel are subject to the special invoice requirements of § 141.89(b)(1):

(i) Category Numbers and Products:

(1) Ingots, blooms, billets, slabs, etc.
(2) Wire rods.
(3) Structural shapes, plain 3 inches and over.
(4) Sheet piling.
(5) Plates.
(6) Rail and track accessories.
(7) Wheels and axles.
(8) Concrete reinforcing bars.
(9) Bar shapes under 3 inches.
(10) Bars, hot rolled, carbon.
(11) Bars, hot rolled, alloy.
(12) Bars, cold finished.
(13) Hollow drill steel.
(14) Welded pipe and tubing.
(15) Other pipe and tubing.
(16) Round and shaped wire.
(17) Flat wire.
(18) Bale ties.
(19) Galvanized wire fencing.
(20) Wire nails.
(21) Barbed wire.
(22) Black plate.
(23) Tin plate.
(24) Terne plate.
(25) Sheets, hot rolled.
(26) Sheets, cold rolled.
(27) Sheets, coated including galvanized.
(28) Sheets, coated, alloy.
(29) Strip, hot rolled.
(30) Strip, cold rolled.
(31) Strip, hot and cold rolled—alloy.
(32) Sheets other, electric coated.

§ 141.90 Notation of tariff classification and value on invoice.

(a) *To be approved by district director.* The entered tariff classification, rate of duty, value, and estimated duties shall be as approved by the district director.

(b) *Classification and rate of duty.* The appropriate item number of the Tariff Schedules of the United States (19 U.S.C. 1202), and the rate of duty shall be noted by the importer in the left-hand portion of the invoice, next to the articles to which they apply.

(c) *Value.* The importer shall show in clear detail on the invoice or on an attached statement the computation of all deductions from total invoice value, such as nondutiable charges, and all additions to invoice value which have been made to arrive at the aggregate entered value. In addition, the entered unit value for each article on the invoice shall be shown where it is different from the invoiced unit value.

(d) *Importer's notations in blue or black ink.* All notations made on the invoice by the importer or broker shall be in blue or black ink. (Sec. 487, 46 Stat. 725, as amended; 19 U.S.C. 1487)

§ 141.91 Entry without required invoice.

If a required invoice, other than a special summary invoice, is not available in proper form at the time the entry or entry summary documentation is filed and a waiver is not granted in accordance with section 141.92, the entry or entry summary documentation shall be accepted only under the following conditions: **[TDs 78-53, 79-221.]**

(a) The district director is satisfied that the failure to produce the required invoice is due to a cause beyond the control of the importer;

(b) The importer files—

(1) A written declaration that he is unable to produce such invoice, and

(2) Any seller's or shipper's invoices available to him or, if none are available, a pro forma invoice in accordance with § 141.85;

(c) The invoices and other documents contain information adequate for the examination of merchandise, the determination of estimated duties, if any, and statistical purposes; and

(d) The importer gives an appropriate bond for the production of the required invoice, which must be produced within 6 months after the date of the filing of the entry summary (or the entry, if there is no entry summary) documentation, unless the invoice is needed for statistical purposes. If needed for statistical purposes, the invoice shall be produced within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required to be filed, unless a reasonable extension of time is granted by the district director for good cause shown. **[TD 79-221.]**

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice, except a special summary invoice required by § 141.83(b), when he is satisfied that either:

(1) The importer cannot by reason of conditions beyond his control furnish a complete and accurate invoice; or

(2) The examination of merchandise, final determination of duties, and collection of statistics can be effected properly without the production of the required invoice. **[TD 79-2210]**

(b) *Documents to be filed by importer.* As a condition to the granting of a waiver, the importer shall file the following documents with the entry or entry summary:

(1) Any invoice or invoices received from the seller or shipper;

(2) A statement pointing out in exact detail any inaccuracies, omissions, or other defects in such invoice or invoices;

(3) An executed pro forma invoice in accordance with § 141.85; and

(4) Any other information required by the district director for either appraisement or classification of the merchandise, or for statistical purposes.

(c) *Satisfaction of bond liability.* The liability under the entry bond for the production of a correct invoice shall be deemed satisfied when a waiver has been granted pursuant to this section.

Subpart G—Deposit of Estimated Duties

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, except in the following cases:

(a) *Merchandise released under entry documentation.*—In the case of merchandise released under the entry documentation listed in section 142.3 of this chapter before filing of the entry summary, deposit of estimated duties shall be made at the time the entry summary is filed unless the merchandise is entered for warehouse. If the merchandise is entered for warehouse, estimated duties shall be deposited in accordance with paragraph (b) of this section. **[TD 79-221.]**

(b) *Warehouse entry.* In the case of merchandise entered for warehouse, deposit of estimated duties shall be made at the time the withdrawal for consumption is presented.

(c) *Informal mail entry.* In the case of merchandise entered under an informal mail entry, duties shall be paid to the postal employee at the time he delivers the merchandise to the addressee (see Part 145 of this chapter).

(d) *Appraisement entries.* In the case of merchandise entered under an appraisement entry, deposit of estimated duties shall be made immediately after notification by the appropriate Customs officer of the amount of duties due.

(e) *Entry for transportation or under bond.* No deposit of estimated duties is applicable in the case of merchandise entered for transportation or under a temporary importation bond, permanent exhibition bond, trade fair bond, or other similar bond.

§ 141.102 When deposit of estimated duties not required.

Entry or withdrawal for consumption in the following situations may be made without depositing the estimated Customs duties, or estimated taxes, or both, as specifically noted:

(a) *Cigars and cigarettes.* A qualified dealer or manufacturer may enter or withdraw for consumption cigars, cigarettes, and cigarette papers and tubes without payment of internal revenue tax in accordance with § 11.2(a) of this chapter.

(b) *Bulk distilled spirits transferred to the bonded premises of a distilled spirits plant.* An importer may transfer distilled spirits in bulk to the bonded premises of a distilled spirits plant under the provisions of section 5232(a), Internal Revenue Code of 1954, as amended (26 U.S.C. 5232(a)), and the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 251), by filing an approved original copy of Alcohol, Tobacco and Firearms form 2609 (5110.16) with the entry or withdrawal for consumption, instead of depositing taxes. **[TD 78-329]**

(c) *Deferral of payment of taxes on alcoholic beverages.* An importer may pay on a semimonthly basis the estimated internal revenue taxes on all the alcoholic beverages entered or withdrawn for consumption during that period, under the procedures set forth in § 24.4 of this chapter.

(d) *Government entries.* If a shipment is entered or withdrawn for consumption by a U.S. Government department or agency, or an authorized representative thereof, no deposit of estimated Customs duties or taxes shall be required if a stipulation is furnished in lieu of any bond provided for in Part 113 of this chapter. The proper department or agency will then be billed after liquidation of the entry for any duties or charges due. The stipulation shall be in the following form: **[TD 74-227.]**

I, ____________________, ________________ (title), a duly authorized representative of the ______________

____

(name of U.S. Government department or agency) stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and of all other laws and regulations, relating to __________

____

(type of entry)

entry No. ________, of ______________ (date) will be observed and complied with in all respects.

____

(Signature)

§ 141.103 Amount to be deposited.

Estimated duties shall be deposited in an amount deemed necessary by the district director to sufficiently cover the prospective duties on each item being entered or withdrawn.

§ 141.104 Computation of duties.

In computing estimated duties, fractional parts of dollars and quantities shall be rounded off in accordance with § 159.3 of this chapter.

§ 141.105 Voluntary deposit of additional duties.

If either the importer of record or the actual owner whose declaration and superseding bond have been filed in accordance with § 141.20 desires, he may estimate, on the basis of information contained in the entry papers or obtainable from the district director, the probable amount of unpaid duties which will be found due on the entire entry and deposit them in whole or in part with the district director. The deposit shall be tendered in writing in the following form in the number of copies required for the purposes of local administration, and an official receipt shall be given for the deposit:

Date ________

To the District Director of Customs,

____

Tender is hereby voluntarily made of $________ as a supplemental deposit of estimated duties and taxes on ________ entry No. ________, dated ________, in the name of ________. Please provide an official receipt.

____
(Importer of record) or (actual owner)

____
(Street address)

____
(City) (State)

Subpart H—Release of Merchandise

§ 141.111 Carrier's release order.

(a) *When required.* Except where release is made directly to the carrier in accordance with § 141.11(b), no merchandise shall be released from Customs custody until a release order has been executed by the carrier, or, in the case of merchandise in a bonded warehouse, by the warehouse proprietor.

(b) *Form of release.* The release order may be executed on any of the following documents:

(1) Customs Form 7529, if a carrier's certificate is used in making entry;

(2) The official entry form;

(3) A combined carrier's certificate and release order issued in accordance with § 141.11(a)(4); or

(4) If a certified duplicate bill of lading or air waybill is used for entry purposes in accordance with § 141.11(a)(3), the carrier's release order may be endorsed thereon in substantially the following form: **[TD 78-394]**

In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by this certified duplicate bill of lading or air waybill to: ————————————————.

(c) *Blanket release order.* Merchandise may be released to the person named in the bill of lading or air waybill in the absence of a specific release order from the carrier, if the carrier concerned has filed a blanket order authorizing release to the consignee in such cases. The release order at the bottom of Customs Form 7529 may be modified and executed to make it a blanket release order for the shipments covered by a blanket carrier's certificate issued under § 141.11(a)(5). **[TD 78-394]**

(d) *Qualified release order.* In the case of merchandise which is entered for warehousing, for transportation in bond, or for exportation, the release order may be qualified as follows:

(1) "For transfer to the bonded warehouse designated in the warehouse entry," if the merchandise is entered for warehousing;

(2) "For transfer to the bonded carrier designated in the transportation entry," if the merchandise is entered for transportation in bond; or

(3) "For transfer to the carrier designated in the export entry," if the merchandise is entered for exportation.

§ 141.112 Liens for freight, charges, or contribution in general average.

(a) *Definitions.* The following are general definitions for the purposes of this section:

(1) *Freight.* "Freight" means the carrier's charge for the transportation of the goods from the place of shipment in the foreign country to the final destination in the United States.

(2) *Charges.* "Charges" means the charges due to or assumed by the claimant of the lien which are incident to the shipment and forwarding of the goods to the destination in the United States, but does not include the purchase price, whether advanced or to be collected, nor other claims not connected with the transportation of the goods.

(3) *General average.* "General average" means the liability to contribution of the owners of a cargo which arises when a sacrifice of a part of such cargo has been made for the preservation of the residue or when money is expended to preserve the whole. It only arises from actions impelled by necessity.

(b) *Notice of lien.* A notice of lien for freight, charges, or contribution in general average pursuant to section 564, Tariff Act of 1930, as amended (19 U.S.C. 1564), shall be filed with the district director on Customs Form 3485, signed by the authorized agent of the carrier and certified by him.

(c) *Preliminary notice of lien for contribution in general average.* When the cargo of a vessel is subject to contribution in general average, a preliminary notice thereof may be filed with the district director and individual notices of lien filed thereafter. Upon receipt of a preliminary notice, the district director shall withhold release of any merchandise imported in the vessel for 2 days (exclusive of Sunday and holidays) after such merchandise is taken into Customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(d) *Merchandise entered for immediate transportation.* A notice of lien upon merchandise entered for immediate transportation shall be filed by the carrier with the district director at the destination.

(e) *Limitations on acceptance of notice of lien.* A notice of lien shall be rejected and returned with the reason for rejection noted thereon if it is filed after any of the following actions have been taken concerning the merchandise:

(1) Release from Customs custody;

(2) Forfeiture under any provision of law;

(3) Sale as unclaimed or abandoned merchandise under section 491 or 559, Tariff Act of 1930, as amended (19 U.S.C. 1491 or 1559); or

(4) Receipt and acceptance of a notice of abandonment to the Government under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1) or 1563(b)).

(f) *Forfeited or abandoned merchandise.* The acceptance of a notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in subpart D of Part 127 and § § 158.10 and 162.51 of this chapter. **[TD 74-114.]**

(g) *Bond may be required.* When any doubt exists as to the validity of a lien filed with the district director, he may exact a bond of indemnity to save him harmless from any personal liability which may result from withholding the release of the merchandise.

(h) *Satisfaction of lien.* The district director shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the district director shall hold the lien satisfied upon the payment of an amount computed upon the basis of the official Customs report of quantity and weight. In all other cases, proof that the lien has been satisfied or discharged shall consist of a written release or receipt signed by the claimant and filed with the district director, showing payment of the claim in full. (Sec. 564, 46 Stat. 747, as amended; 19 U.S.C. 1564)

§ 141.113 Recall of merchandise released from Customs custody.

(a) *Merchandise not legally marked.* Certain merchandise is required to be marked or labeled pursuant to the following provisions:

(1) Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), pertaining to marking with country of origin;

(2) Textile Fiber Products Identification Act (15 U.S.C. 70);

(3) Wool Products Labeling Act (15 U.S.C. 68);

(4) Fur Products Labeling Act (15 U.S.C. 69); and

(5) Schedule 7, part 2E, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), pertaining to special marking for watch and clock movements, cases, and dials.

If such merchandise is found after release to be not legally marked, the district director may demand its return to Customs custody for the purpose of requiring it to be properly marked or labeled. The demand for marking or labeling shall be made not later than 30 days after the date of entry in the case of merchandise examined in public stores, and places of arrival, such as docks, wharfs, or piers. Demand may be made no later than 30 days after the date of examination in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the district director.

(b) *Other merchandise not entitled to admission.* If at any time after entry the district director finds that any merchandise contained in an importation is not entitled to admission into the commerce of the United States for any reason not enumerated in paragraph (a) of this section, he shall promptly demand the return to Customs custody of any such merchandise which has been released.

(c) *Request for samples or additional examination packages not complied with by importer.* If the importer has not promptly complied with a request for samples or additional examination packages made by the district director pursuant to § 151.11 of this chapter, the district director may demand the return of the necessary merchandise to Customs custody.

(d) *Demand to importer of record or actual owner.* A demand for the return of merchandise to Customs custody shall be made on the importer of record, except that it shall be made on the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with § 141.20 before the date of the demand.

(e) *Form of demand.* A demand for the return of merchandise to Customs custody shall be made on Customs Form 4647 or other appropriate form, or by letter. One copy, with the date of mailing or delivery noted thereon, shall be retained by the district director and made part of the entry record.

(f) *Time limitation.* A demand for the return of merchandise to Customs custody shall not be made after the liquidation of the entry covering such merchandise has become final.

(g) *Demand not complied with.* When the demand of the district director for return of merchandise to Customs custody is not complied with, liquidated damages shall be assessed, except in the case of merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), in an amount equal to the value of the merchandise not returned, as determined at the time of entry, plus the estimated duties and taxes, if any. The amount of liquidated damages to be assessed on merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States, are set forth in § 10.39(d)(3) of this chapter. (Secs. 499, 623, 46 Stat. 728, as amended, 759, as amended; 19 U.S.C. 1499, 1623) **[TD 74-227.]**

PART 142—ENTRY PROCESS

Sec.
142.0 Scope.

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Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624, Pub. L. 95–410 (92 Stat. 888). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 79–221, 44 FR 46821, August 9, 1979, unless otherwise noted.

§ 142.0 Scope.

This part sets forth requirements and procedures relative to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)). [TD 73–175.]

§ 142.1 Definitions.

For definitions of "entry", "entry summary," "submission", "filing," "presentation", "entered for consumption", "entered for warehouse", and "entered under a temporary importation bond", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise*—(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in§ 141.11 of this chapter.

(3) *Commerical invoice.* A commerical invoice, except that in those instances listed in § 141.83(d) of this chapter where a commerical invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, State, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13.

(1) Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation if the additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(c) *Extra copies.* The district director may require additional copies of the documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100, unless the district director determines that an assignment of a block of less than 100 is warranted. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 1, 1979, and end on September 30, 1980. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space: for example, 79 100001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers; cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, of if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels entry numbers, previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

(a) *At time of entry.* Except as provided in § 10.101(d) of this chapter, merchandise shall not be release from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.39(a) of this chapter, has been filed.

(1) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond. **[TDs 74-227, 77-23.]**

(2) *Term bond.* A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter. **[TD 74-227.]**

(3) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

(b) *If entry summary is filed after entry.* (1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, bond filed at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is filed, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of other party, the party named in the entry summary shall file one of the bonds enumerated in paragraph (a) of this section. In this circumstances, the bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accue after the bond filed by the party name in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under § 141.20 of this chapter.

§ 142.5 Bond rider.

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

Rider "R"

(To be attached to all entry bonds)

Whereas certain merchandise which is referred to in a bond dated________________, in the amount of________________, executed by ________________, as principal, and________________, as surety, to which this rider relates has been imported at the port of ________________, and entered at said port on entry No. ________________, dated ________________ 19_____, or the principal expects to enter merchandise during the period covered by a term bond to which this rider dated________________19_____, in the amount of________________, executed by________________, as principal, and________________, as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the principal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounded principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics wtih respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the even of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this ________ day of ________________ 19______.

(Seal)
Principal ____
(Seal)
Surety ____

Certificate as to Corporate Principal

I, ________________certify that I am the [1]________________of the corporation named as principal in the rider; that ________________, who signed the said rider on behalf of the principal was then________________ of said corporation, that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 Invoice requirements.

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commercial invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the Tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request. The district director may waive this requirement if he is satisfied that the information is not available at the time release of the merchandise is authorized.

(b) *Information not required when filing entry.* In addition to the information specified in paragraph (a) of this section, the commerical invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.86 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, it shall be included in the invoice or substitute document delivered at the time the entry summary documentation is filed.

§ 142.7 Examination of merchandise.

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

142.8 Failure to file entry timely.

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance wtih § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on Customs Form 752. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

(b) *Extra copies.* The district director may require additional copies of the entry summary.

§ 142.12 Time for filing or submission for preliminary review.

(a) *At option of importer—(1) Filing.* Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review.* If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance wtih paragraph (a)(1) of this section.

(b) *When required.* If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties.* Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or

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[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

pay the amount, claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly delivered entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of an entry summary for consumption, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached. (See Part 132 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, shall be filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the brokers's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarter.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the merchandise. The importer may use these documents in preparing the entry summary, Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.12(b). The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

(2) The merchandise arrives by land, by the same vessel or by the same air carrier,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which required processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

(5) Merchandise classifiable under the same Tariff Schedules of the United States item number having different rates of duty for which entries or immediate transportation entries have been filed. However, this provision is not applicable in the following circumstances:

(i) *Entries.* Entries may be consolidated if the time of entry is—

(A) Before the date of change in rate of duty, or

(B) On or after the date of change in rate of duty.

(ii) *Immediate transportation entries.* Immediate transportation entries may be consolidated if the date of acceptance is—

(A) Before the date of change in the rate of duty, or

(B) On or after the date of change in rate of duty.

(c) *Entry documentation not in proper form.* If an entry summary covering multiple entries refers to entry documentation which is not in proper form, the entry summary and the entry documentation shall be returned for correction.

§ 142.17a One consolidated entry summary for multiple ultimate consignees.

(a) *Applicability.* The district director may permit a broker as nominal consignee to file a consolidated entry summary in his own name under his own bond covering shipments of like or similar merchandise consigned to various ultimate consignees provided that all the merchandise is—

(1) Imported on the same day,

(2) Itemized as to each category of merchandise by Tariff Schedules of the United States Annotated statistical reporting number, and

(3) Released on the same day, either under the entry documentation specified in § 142.3, or under a special permit for immediate delivery. A consolidated entry summary may be filed for merchandise arriving by land, by the same vessel, or by the same air carrier.

(b) *Information required on the entry summary*—(1) *Separate listing according to ultimate consignee.* The broker shall list separately on the face of the consolidated entry summary the merchandise for each ultimate consignee, together with the appropriate entry or special permit numbers.

(2) *If different land carriers are involved.* If merchandise arriving by different land carriers is included on one entry summary, necessary information pertaining to each carrier shall be shown on the face of the entry summary, related to the applicable shipment.

§ 142.18 Entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released at time of entry is later found to be prohibited, the district director shall demand its return to Customs custody in accordance with § 141.113 of this chapter, and an entry summary and the deposit of estimated duties, if any, shall not be required provided:

(1) An entry for exportation, Customs Forms 7512, or for application to destroy the merchandise under Customs supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, Customs Form 7512, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise as required by paragraph (a) shall be in accordance with §§ 158.41 and 158.45(c) of this chapter.

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from Customs custody until an appropriate bond has been filed, or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise not designated for examination may be released to, or upon the order of, the carrier if an entry bond is filed on Customs Form 7551, 7555, 7595, in an amount determined in accordance with Part 113 of this chapter. Merchandise designated for examination may be released under the entry bond after examination has been completed if:

(1) It has been found to be truly and correctly invoiced,

(2) It is entitled to admission into the commerce of the United States, and

(3) Its release is not precluded by any law or regulation. If merchandise is entered by or on behalf of a United States Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in place of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, the merchandise shall not be released before:

(1) The entry has been liquidated and the full amount of all duties and taxes due, including dumping or other special duties and charges, has been paid, or the right to free entry established.

(2) The district director determines that the merchandise may be admitted into the commerce of the United States, and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

Subpart C—Special Permit for Immediate Delivery

§ 142.21 Merchandise eligible for special permit for immediate delivery.

Merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C.1448(b)), in the following circumstances:

(a) *Contiguous countries.* At the discretion of the district director, merchandise arriving by land from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has on file one of the types of Customs bonds described in § 142.4. An entry summary shall be filed in accordance with § 142.22(b)(1), and estimated duties, if any, shall be deposited, within the time period specified in § 142.23 for all merchandise from contiguous countries released under a special permit except for fresh fruits and vegetables for human consumption released under the provisions of paragraph (b) of this section. **[TD 76-220, 76-246.]**

(b) *Fresh fruits and vegetables.* (1) An application for a special permit for immediate delivery may be made for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border.

(2) The application shall be supported by a term bond on Customs Form 7553, or a general term bond on Customs Form 7595 as prescribed in § 142.4, to which a rider in the following format has been added:

Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to Customs Form 7553 and 7595.

In addition to the conditions appearing in the bond dated________, in the amount of________, executed by ________, as principal and ________, as surety, to which this stipulation relates. It is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

If, pursuant to section 448(b) of the Tariff Act of 1930, as amended (19 U.S.C.1448(b)), and § 142.21(a) of the Customs Regulations, fresh fruits and vegetables have been released for immediate delivery from________ to the importer's premises at________, the produce shall be transported and stored in accordance with the regulations, and may be examined and disposed of according to § 158.11(b) of the Customs Regulations; the balance of the produce shall be entered for consumption, entered for transportation and exportation, or transported in bond under an entry for immediate transportation without appraisement. In the event of failure to make an appropriate entry or deposit the estimated duties due, when so required, the above bounden principal shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the charges and duties thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, also shall be binding on all parties to this obligation,

Witness our hands and seals this ________ day of ________, 19____,

(Seal)
Principal ________
(Seal)
Surety ________

Certificate as to Corporate Principal

I,________, certify that I am the[1] ________ of the corporation named as principal in the rider; that________, who signed the said rider on behalf of the principal, was then________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

(3) The fresh fruits and vegetables shall be transported to the importer's premises in the vehicles in which they crossed the border or, if transshipment is necessary in vehicles provided by the importer. The fresh fruits and vegetables may be examined at the importer's premises. These portions without commercial value may be disposed of in accordance with the provisions of § 158.11(b) of this chapter, and the balance shall be entered for consumption or transported in bond under an entry for immediate transportation without appraisement or under an entry for transportation and exportation.

(c) *Agency of U.S. Government.* Merchandise may be released under the immediate delivery procedure if the shipment is consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, as provided in § 10.101 of this chapter.

(d) *Articles of a trade fair.* Articles for a trade fair may be released under the immediate delivery procedure, as provided in § 147.13 of this chapter.

(e) *Quota-class merchandise.*—(1) *Tariff-rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file one of the type of bonds enumerated in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in § 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented an entry summary, with estimated duties attached, he either may present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

(f) *Release from warehouse followed by warehouse withdrawal for consumptiion.* Merchandise may be released from warehouse under a special permit—

(1) At the discretion of the district director when

(i) The warehouse is located a considerable distance from the customhouse and actual release of the merchandise from the warehouse may not be effected within the next full business day after the day of the payment of duty, and

(ii) The district has sufficient manpower to permit such practice;

(2) The importer shall have on file one of the types of Customs bonds provided for in § 142.4; and

(3) The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise. **[TD 81-260.]**

(g) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), and (f) of this section provided an appropriate bond is on file.

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[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in § 142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in § 142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 of this part shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached, an entry summary for warehouse, or an entry summary for entry under a temporary importation bond, which may be filed in any of the circumstances under § 142.21 of this part except for merchandise released from warehouse under § 142.21(f) of this part;

(2) A withdrawal for consumption, with estimated duties attached, which shall be filed only for merchandise released from warehouse under § 142.21(f) of this part;

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation, which shall be filed in those circumstances under § 142.21(b) and (e)(2) of this part; or entry for transportation and exportation, or direct exportation, which shall be filed in the circumstances under § 142.28 of this part or

(4) An application to destroy, which shall be filed in those circumstances under § § 142.21(b) and (e)(2), and § 142.28 of this part. **[TD 81-260.]**

§ 142.23 Time limit for filing documentation after release.

The applicable documentation described in § 142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery or, for quota class merchandise, within the quota period, whichever expires first.

§ 142.24 Term special permit.

(a) *Conditions for issuance.* At the discretion of the district director, a term special permit for immediate delivery may be issued on Customs Form 3461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit, to be imported during a period not to exceed 1 year from the date of the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* The district director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in § 142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidation damages issued under § 142.27 for failure to file the application Customs documentation set forth in § 142.22(b) timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(3) Has repeatedly delivered documentation required by § 142.22(b) which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may discontinue immediate delivery privileges if the importer is substantially delinquent in the payment of Customs bills. See § 142.26.

(c) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills: **[TD 76-78.]**

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended in that region. The notice shall state the reason for the action and advise the importer that if payment of all his deliquent Customs bills is not made within 10 working days from the date of the notice, the importer's immediate delivery privileges also shall be suspended in all Customs regions. **[TD 76-78.]**

(b) *Reinstatement of privileges by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the suspension shall be removed, and the importer's immediate delivery privileges shall be reinstated. **[TD 76-78.]**

(c) *Reinstatement of privileges by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, his immediate delivery privileges shall be suspended in all Customs regions. This suspension shall remain in effect in each port of entry until notification is received from Headquarters that the suspension is removed and that the importer's immediate delivery privileges have been reinstated. **[TD 76-78.]**

§ 142.27 Failure to file documentation timely.

If the applicable Customs documentation set forth in § 142.22(b) is not filed within the time provided in § 142.23, the district director shall make an immediate demand for liquidated damages in the amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.28 Withdrawal or entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If the merchandise released under a special permit for immediate delivery later is found to be prohibited, the district director shall demand its recall in accordance with § 141.113 of this chapter (applicable to the recall of merchandise released from Customs custody), and withdrawal or entry summary documentation and the deposit of estimated duties, if any, shall not be required provided:

(1) the merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.23, or

(2) An entry for exportation or for transportation and exportation on Customs from 7512, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise required by paragraph (a) of this section shall be under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties. See §§ 158.41 and 158.45(c) of this chapter.

(c) *Notation on exportation entry.* An entry for exportation or for transportation and exportation of prohibited merchandise for which no entry summary for consumption has been filed shall be stamped or imprinted conspicuously with the legend:

Prohibited Merchandise, No Other Entry Filed

§ 142.29 Other procedures applicable.

Merchandise released under a special permit for immediate delivery shall be subject to the same procedures applicable to all other imported merchandise, unless specific procedures are set forth in this subpart.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

Sec.
143.0 Scope.

Subpart A—Consumption Entry

[Reserved.]

Subpart B—Appraisement Entry

143.11 Merchandise eligible for appraisement entry.
143.12 Form of entry.
143.13 Documents to be presented with entry.
143.14 Payment of additional expenses.
143.15 Deposit of estimated duties and taxes.
143.16 Substitution of warehouse entry.

Subpart C—Informal Entry

143.21 Merchandise eligible for informal entry.
143.22 Formal entry may be required.
143.23 Form of entry.
143.24 Preparation of Customs Form 5119-A and Customs Form 7501.
143.25 Information on entry form.
143.26 Additional copy for Internal Revenue.
143.27 Invoices.
143.28 Deposit of duties and release of merchandise.

Authority: R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 726, as amended, 729; 19 U.S.C. 66, 1484, 1498, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 73-175, 38 FR 17463, July 2, 1973, unless otherwise noted.

§ 143.0 Scope.

This part sets forth requirements and procedures for the clearance of imported merchandise under consumption, appraisement, and informal entries, which are in addition to the general requirements and procedures for all entries set forth in Part 141 of this chapter. More specific requirements and procedures are set forth elsewhere in this chapter; for example, in Part 145 for importations by mail, and in Part 10 for merchandise conditionally free of duty or subject to a reduced rate. **[TD 73-175.]**

Subpart A—Consumption Entry

[Reserved]

Subpart B—Appraisement Entry

§ 143.11 Merchandise eligible for appraisement entry.

(a) *Without Commissioner's approval.* An application for entry by appraisement may be approved by the district director without securing the approval of the Commissioner of Customs for any of the following merchandise:

(1) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(2) Merchandise recovered from a wrecked or stranded vessel;

(3) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(4) Articles sent by persons in foreign countries as gifts to persons in the United States;

(5) Tools of trade of a person arriving in the United States;

(6) Personal effects of citizens of the United States who have died in a foreign country; and

(7) Any of the following articles, which are deemed in accordance with section 498(a)(10), Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(10)), to be articles the value of which cannot be declared:

(i) Articles which are secondhand;

(ii) Articles which have become deteriorated or damaged before importation otherwise than as specified in subparagraph (1) of this paragraph;

(iii) Articles which are not the subject of a commercial transaction; and

(iv) So-called overages or dock accumulations which cannot be identified with any particular shipment.

(b) *With Commissioner's approval.* Entry by appraisement for merchandise not provided for in paragraph (a) of this section shall be allowed only with the approval of the Commissioner of Customs. Each request for such approval shall be filed in triplicate with the district director and shall state in detail the reasons for the request for entry by appraisement.

(c) *Merchandise not eligible.* An application for an entry by appraisement shall not be approved after the merchandise has been appraised or released from Customs custody, nor for damaged merchandise when the damage occurs after importation.

§ 143.12 Form of entry.

Application for an entry by appraisement shall be made in triplicate on Customs Form 7500.

§ 143.13 Documents to be presented with entry.

The importer shall in all cases present:

(a) Any bills or statements of cost relating to the merchandise which may be in his possession; and

(b) A declaration that he has no other information as to the value of the articles and is unable to obtain such information or to determine the value of the articles for the purpose of making formal entry thereof.

§ 143.14 Payment of additional expenses.

Any additional expenses for cartage, storage, or labor occasioned by reason of an entry by appraisement shall be borne by the importer.

§ 143.15 Deposit of estimated duties and taxes.

Estimated duties shall be deposited in accordance with subpart G of Part 141 of this chapter before the merchandise is released from Customs custody.

§ 143.16 Substitution of warehouse entry.

The importer may substitute an entry for warehouse at any time within 1 year from the date of importation, provided the merchandise has remained in continuous Customs custody.

Subpart C—Informal Entry

§ 143.21 Merchandise eligible for informal entry.

The following types of merchandise are among those which may be entered under informal entry:

(a) Shipments of merchandise not exceeding $250 in value;

(b) Any installment, not exceeding $250 in value, of a shipment arriving at different times, as described in § 141.82 of this chapter;

(c) A portion of one consignment, when such portion does not exceed $250 in value and may be entered separately pursuant to § 141.51 of this chapter;

(d) Household or personal effects or tools of trade entitled to free entry under schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202);

(e) Household effects used abroad and personal effects whether or not entitled to free entry, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(f) Household and personal effects described in paragraph (e) of this section when entered under item 806.20, Tariff Schedules of the United States (19 U.S.C. 1202), and the value of the repairs and alterations thereto does not exceed $250;

(g) Personal effects not exceeding $250 in value of citizens of the United States who have died abroad;

o (h) Books and other articles classifiable under item 270.25, 273.10, 273.35, 765.03, 850.10, or 851.10, Tariff Schedules of the United States (19 U.S.C. 1202), imported by a library or other institution described in item 850.10 or 851.10, Tariff Schedules of the United States (19 U.S.C. 1202); **[TD 76-145.]**

o (i) Theatrical scenery, properties, and effects, motion-picture films, commercial travelers' samples and professional books, implements, instruments, and tools of trade, occupation, or employment, as set forth in § 10.68 of this chapter, and

o (j) Merchandise which, upon written application to the Commissioner of Customs, is determined to be so unique in character or design that the value thereof cannot be declared and which is not intended for sale or imported in pursuance of a purchase or agreement for purchase. **[TD 75-41, 40 FR 6646, February 13, 1975, 75-241, 82-116.]**

§ 143.22 Formal entry may be required.

The district director may require a formal consumption or appraisement entry for any merchandise if he deems it necessary for the protection of the revenue. Individual shipments for the same consignee, when such shipments are valued at $250 or less, may be consolidated on one such entry.

§ 143.23 Form of entry.

Except for the types of merchandise listed below which may be entered on the forms indicated, merchandise to be entered informally shall be entered on a Customs Form 5119–A, or, if authorized by the district director, upon the presentation of a commercial invoice which contains the following declaration, signed by the importer or his agent: **[TD 75-105.]**

> I declare that the information on this invoice is accurate to the best of my knowledge and belief; that the invoice quantities are true and correct manifest quantities; and that I have not received and do not know of any invoice other than this one.

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(a) Articles in passengers' baggage which may be cleared on a baggage declaration in accordance with subpart B of Part 148 of this chapter;

(b) Products of the United States being returned for which clearance on Customs Form 3311 is prescribed by § 10.1 of this chapter;

(c) Personal effects and tools of trade for which clearance on Customs Form 3299 is prescribed by § 148.6 of this chapter; and

(d) Shipments not exceeding $250 in value which are either (1) unconditionally free of duty and not subject to any quota or internal revenue tax, or (2) conditionally free (other than shipments of merchandise provided for in paragraph (g) of this section) and all conditions for free entry are met at the time of entry, which may be released upon the filing by the importer on Customs Form 7523, in duplicate, supported by evidence of the right to make entry. **[TD 80-10.]**

(e) Merchandise for which informal entry can be made on a different form as prescribed elsewhere in this chapter.

(f) Merchandise released under the immediate delivery procedure or the entry documentation required by section 142.3(a), and entry is made on Customs form 7501, annotated "Informal entry" in the upper right hand corner. **[TDs 76-213, 79-221.]**

(g) Merchandise, regardless of value, which is imported for noncommercial purposes, which qualifies for entry free of duty under the Generalized System of Preferences (see § 10.171–10.178 of this chapter), and for which informal entry may be made on Customs Form 7523, in duplicate. **[TD 80-10.]**

§ 143.24 Preparation of Customs Form 5119–A and Customs Form 7501.

(a) *Customs Form 5119–A.* The nonserially-numbered Customs Form 5119–A may be prepared by importers or their agents or by Customs officers when it can be presented to a Customs cashier or acting cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a Customs officer. Where there is no Customs cashier or acting cashier, serially-numbered forms must be used, and they shall be prepared by a Customs officer unless such forms can be prepared under his control by the importers or their agents for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of non-serially-numbered Customs Form 5119–A by importers or their agents, as described in the first sentence of this section, do not apply to the acceptance of these entries for shipments not exceeding $250 in value released under a special permit for immediate delivery in accordance with Part 142 of this chapter. **[TD 76-213.]**

(b) *Customs Form 7501.* In lieu of Customs Form 5119–A, in situations where immediate delivery is permitted, importers or their agents may prepare a Customs Form 7501, in triplicate, annotated "Informal Entry" in the upper right hand corner. The Customs Form 7501 shall be numbered in accordance with the requirements of paragraph (a) of this section. **[TD 76-213.]**

§ 143.25 Information on entry form.

Each Customs Form 5119–A or, where used, Customs Form 7501 shall contain an adequate description of the merchandise and the item number of the Tariff Schedules of the United States (19 U.S.C. 1202), under which the merchandise is classified. **[TD 76-213.]**

§ 143.26 [Reserved] [TDs 76-213, 78-329]

§ 143.27 Invoices.

No special Customs invoice is required for merchandise entered informally but, in the case of merchandise imported pursuant to a purchase or agreement to purchase or intended for sale, the importer shall produce the commercial invoice covering the transaction or, in the absence thereof, an itemized statement of value.

§ 143.28 Deposit of duties and release of merchandise.

The estimated duties and taxes, if any, shall be deposited at the time the entry is presented and accepted by a Customs officer, whether at the customhouse or elsewhere. If upon examination of the merchandise further duties or taxes are found due, they shall be deposited before release of the merchandise by Customs. When the entry is presented elsewhere than where the merchandise is to be examined, the permit copy shall be delivered through proper channels to the Customs officer who will examine the merchandise.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

Sec.

144.0 Scope.

Subpart A—General Provisions

144.1 Merchandise eligible for warehousing.
144.2 Liability of importers and sureties.
144.3 Allowance for damage.
144.4 Allowance for abandoned, destroyed, or exported merchandise.
144.5 Period of warehousing.
144.6 [Reserved.]
144.7 Disposition of merchandise after expiration of warehousing period.

Subpart B—Requirements and Procedures for Warehouse Entry

144.11 Form of entry.
144.12 Contents of entry summary; estimated duties.
144.13 Bond requirements.
144.14 Removal to warehouse.
144.15 Entry and withdrawal from Customs bonded warehouses of distilled spirits for diplomatic personnel, foreign military personnel, and other such personages.

Subpart C—Transfer of Right to Withdraw Merchandise from Warehouse

144.21 Conditions for transfer.
144.22 Endorsement of transfer on withdrawal form.
144.23 Endorsement in blank.
144.24 Transferee's bond.
144.25 Deposit of forms.
144.26 Further transfer.
144.27 Withdrawal from warehouse by transferee.
144.28 Protest by transferee.

Subpart D—Withdrawals from Warehouse

144.31 Right to withdraw.
144.32 State of quantity.
144.33 Minimum quantities to be withdrawn.
144.34 Transfer to another warehouse.
144.35 Withdrawal of vessel and aircraft supplies and equipment.
144.36 Withdrawal for transportation.
144.37 Withdrawal for exportation.
144.38 Withdrawal for consumption.

Subpart E—Rewarehouse Entries

144.41 Entry for rewarehouse.
144.42 Combined entry for rewarehouse and withdrawal for consumption.

Authority: R.S. 251, as amended, secs. 484, 557, 559, 624, 46 Stat. 722, as amended, 744, as amended, 759; 19 U.S.C. 66, 1484, 1557, 1559, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 73-175, 38 FR 17464, July 2, 1973, unless otherwise noted.

§ 144.0 Scope.

This part contains regulations pertaining to the entry and withdrawal of merchandise under the provisions of section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), which among other things provides that articles subject to duty may be entered for warehousing and deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee, and withdrawn from warehouse for consumption upon payment of duties and charges. The requirements and procedures set forth in this part are in addition to the general requirements and procedures for all entries set forth in Part 141 of this chapter. Regulations pertaining to manipulation in warehouse, manufacturing warehouses, and smelting and refining warehouses are set forth in Part 19 of this chapter. **[TD 73-175.]**

Subpart A—General Provisions

§ 144.1 Merchandise eligible for warehousing.

(a) *Types of merchandise.* Any merchandise may be entered for warehousing except for perishable merchandise, explosive substances (other than firecrackers), and unconditionally free merchandise. Dangerous and highly flammable merchandise, though not classified as explosive, shall not be entered for warehouse without the written consent of the insurance company insuring the warehouse in which the merchandise is to be stored.

(b) *Conditionally free merchandise.* Conditionally free merchandise, for which the right to free entry has not been established because of the absence of required documents or other cause, may be entered for warehouse and be withdrawn under the appropriate provision of law within the warehousing period.

(c) *Merchandise previously entered.* If merchandise has been entered under other than a warehouse entry and has remained in continuous Customs custody, a warehouse entry may be substituted for the previous entry. If estimated duties were deposited with the superseded previous entry, that entry shall be liquidated for refund of the estimated duties without awaiting liquidation of the warehouse entry. All copies of the warehouse entry shall bear the following notation: This entry is in substitution of ______________ entry No. ________, dated ______________.

§ 144.2 Liability of importers and sureties.

The importer of merchandise entered for warehouse is liable for the payment of all unpaid duties not only as principal on the entry bond, but also by reason of his personal liability as consignee. Under the conditions of the warehouse entry bond, the sureties on the bond shall be held liable for the payment of duties and Customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained before the merchandise is withdrawn from Customs custody or thereafter. Liability may be transferred in part along with the right to withdraw the merchandise, in accordance with Subpart C of this part.

§ 144.3 Allowance for damage.

No abatement or allowance of duties shall be made on account of damage, loss, or deterioration of the merchandise while in warehouse, except as provided for by law (see Part 158 of this chapter). (Sec. 563, 46 Stat. 746, as amended; 19 U.S.C. 1563)

§ 144.4 Allowance for abandoned, destroyed, or exported merchandise.

Allowance in duties shall be made for merchandise in warehouse which is abandoned or destroyed in accordance with § 158.43 of this chapter or exported in accordance with § 144.37.

§ 144.5 Period of warehousing.

(a) *Generally.*—Except as provided in paragraph (b) of this section, merchandise shall not remain in a bonded warehouse beyond 5 years from the date of importation.

(b) *Exception.*—For merchandise remaining in a bonded warehouse on October 3, 1978, the date of enactment of Public Law 95-410 (92 Stat. 888), any period of time the merchandise was in a bonded warehouse before that date shall be disregarded and the 5-year period shall commence on that date. **[TD 79-221.]**

§ 144.6 [Reserved.] [TD 79-221.]

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with section 127.14 of this chapter. **[TDs 78-199, 79-221.]**

Subpart B—Requirements and Procedures for Warehouse Entry

§ 144.11 Form of entry.

(a) *Entry.*—The documentation required by section 142.3 of this chapter shall be filed at the time of entry. If the warehouse entry summary, Customs form 7502, is filed at time of entry, it shall serve as both the entry and the entry summary, and Customs forms 3461 or 7533 shall not be required. If the warehouse entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by section 142.12 of this chapter. If merchandise is released before the filing of the warehouse entry summary, the importer shall have a bond on file, as prescribed by section 142.4 of this chapter. **[TDs 73-312, 76-82, 79-221.]**

(b) *Customs form 7502.*—The entry summary for merchandise entered for warehouse shall be executed in triplicate on the Warehouse or Rewarehouse Entry, Customs form 7502, appropriately modified, and shall include all of the statistical information required by section 141.61(e) of this chapter. The district director may require an extra copy or copies of the Warehouse or Rewarehouse Permit, Customs form 7502-A, for use in connection with delivery of the merchandise to the bonded warehouse. **[TD 79-221.]**

(c) *Designation of warehouse.*—The importer shall designate on the warehouse entry summary, Customs form 7502, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred. **[TD 79-221.]**

(d) *Specification list.*—When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary. **[TD 79-221.]**

§ 144.12 Contents of entry summary; estimated duties.

The entry summary, Customs form 7502, shall show the value, classification, and rate of duty as approved by the district director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption. **[TD 79-221.]**

§ 144.13 Bond requirements.

(a) *Entry summary not filed at time of entry.*—A bond on Customs form 7551, 7553, or 7595 shall be required when the entry documentation is filed if the entry summary documentation is not filed at that time. When the entry summary is filed thereafter, as prescribed in section 142.13 of this chapter, a bond on Customs form 7555 or 7595 shall be required if a bond on Customs form 7551 or 7553 is on file in support of the entry documentation. If a bond on Customs form 7595 is on file in support of the entry documentation, that bond shall be sufficient to support the entry summary. **[TD 79-221.]**

(b) *Entry summary filed at time of entry.*—If the entry summary is filed at time of entry, the entry summary shall serve as both the entry and the entry summary, and a bond on Customs form 7555 or 7595 shall be required. (Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623) **[TD 79-221.]**

§ 144.14 Removal to warehouse.

When the entry summary, Customs form 7502, and the appropriate bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal is filed, or **[TD 79-221.]**

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination. **[TD 79-221.]**

§ 144.15 Entry and withdrawal from Customs bonded warehouses of distilled spirits.

(a) *Distilled spirits entered in warehouse under section 5066(a), Internal Revenue Code*—(1) *General rule.* Except as otherwise provided in this section, distilled spirits entered into Customs bonded warehouse in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)), shall be treated in the same manner as any other merchandise entered for warehouse. **[TD 78-298.]**

(2) *Withdrawal from warehouse for domestic consumption.* Distilled spirits entered in warehouse under this paragraph may be withdrawn from warehouse for domestic consumption under section 5066(c), Internal Revenue Code, as amended (26 U.S.C. 5066(c)). In this case, the distilled spirits shall be subject to duty as American goods exported and returned under item 804.20, Tariff Schedules of the United States (19 U.S.C. 1202).

(3) [Deleted]. **[TD 78-298]**

(b) *Distilled spirits transferred from a manufacturing warehouse to a storage warehouse under section 311, Tariff Act of 1930, as amended*—(1) *Prohibition on withdrawal from warehouse for domestic consumption.* Domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, Class 2 , in accordance with section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), may not be withdrawn under section 5066(c) of the Internal Revenue Code, as amended (26 U.S.C. 5066(c)), for domestic consumption. **[TD 80-271.]**

(2) *Procedure governing transfer of distilled spirits from manufacturing warehouse to storage warehouse.* For procedure concerning the transfer of such distilled spirits from Customs bonded manufacturing warehouse, Class 6, to Customs bonded storage warehouse, see § 19.15(g)(2) of this chapter.

(c) *Distilled spirits entered under section 5214(a)(9), Internal Revenue Code*—(1) *General rule.* Distilled spirits may be entered into a Customs bonded storage warehouse under section 5214(a)(9), Internal Revenue Code, as amended (26 U.S.C. 5214(a)(9)), in the same manner as any other merchandise is entered for warehouse, unless otherwise provided in this section.

(2) *Withdrawal only for exportation.* Distilled spirits warehoused under section 5214(a)(9), Internal Revenue Code, may be withdrawn only for the purpose of exportation, either directly or after rewarehousing at the same or another port. The distilled spirits may not be withdrawn for domestic consumption.

(d) *Modification of warehouse entry bond.* The recital clause of the warehouse entry bond, Customs Form 7555, the general term bond, Customs Form 7595, or other appropriate bond form, shall be modified prior to its approval by the addition of the following condition: "Or, if said articles shall be withdrawn in accordance with section 5066(b), 5066(c), or 5214(a)(9), Internal Revenue Code of 1954, as amended (26 U.S.C. 5066(b), 5066(c), or 5214(a)(9)), there shall be compliance with these and all other applicable statutes and regulations, or in default thereof, if the obligors shall pay to the appropriate Customs officer as liquidated damages an amount equal to the aggregate sum of double the duties plus the internal revenue tax assessable on the merchandise not so withdrawn." **[TD 78-298]**

Subpart C—Transfer of Right To Withdraw Merchandise From Warehouse

§ 144.21 Conditions for transfer.

Under the provisions of section 557(b) Tariff Act of 1930, as amended (19 U.S.C. 1557(b)), the right to withdraw all or part of merchandise entered for warehouse may be transferred by appropriate endorsement on the withdrawal form, provided that the transferee files an appropriate bond. Upon the deposit of the endorsed form, properly executed, and the transferee's bond with the Customs officer designated to receive such form and bond, the transferor and his sureties shall be relieved from all undischarged liability for the payment of Customs duties and taxes, charges, and exactions with respect to the merchandise transferred, but shall remain bound by all other obligations of their bond which are not assumed in the bond filed by the transferee.

§ 144.22 Endorsement of transfer on withdrawal form.

Transfer of the right to withdraw merchandise entered for warehouse shall be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. Endorsement shall be made on whichever of the following withdrawal forms is applicable:

(a) Customs Form 7506 for merchandise to be withdrawn as vessel or aircraft supplies and equipment under § 10.60(b) of this chapter;

(b) Customs Form 7512 for merchandise to be withdrawn for transportation in accordance with § 144.36; or

(c) Customs Form 7505 for all other merchandise.

§ 144.23 Endorsement in blank.

If the transferor wishes to do so, he may endorse the withdrawal form to authorize the right to withdraw the merchandise specified thereon but leave the space for the name of the transferee blank. A holder of a withdrawal form so endorsed and otherwise fully executed may insert his own name in the blank space, deposit such form and his transferee's bond with the Customs officer designated to receive such form and bond, and thereby establish his right to withdraw the merchandise.

§ 144.24 Transferee's bond.

A transferee's bond shall be on Customs Forms 7555, 7595, or other appropriate form, and shall include an obligation to pay, with respect to the merchandise the subject of the transfer, all unpaid regular, increased, and additional duties, all unpaid taxes imposed upon or by reason of importation, and all unpaid charges and exactions.

§ 144.25 Deposit of forms.

Either the transferor or the transferee may deposit the endorsed withdrawal form and transferee's bond with the Customs officer designated to receive such form and bond.

§ 144.26 Further transfer.

The right of a transferee to withdraw the merchandise may not be revoked by the transferor but may be retransferred by the transferee.

§ 144.27 Withdrawal from warehouse by transferee.

At any time within the warehousing period, a transferee who has established his right to withdraw merchandise may withdraw all or part of the merchandise covered by the transfer by filing any authorized kind of withdrawal from warehouse in accordance with subpart D of this part.

§ 144.28 Protest by transferee.

(a) *Entries on or after January 12, 1971.* A transferee of merchandise entered for warehouse on or after January 12, 1971, shall have the right to file a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), to the same extent that such right would have been available to the transferor.

(b) *Entries prior to January 12, 1971.* A transferee of merchandise entered for warehouse prior to January 12, 1971, shall have no right to file a protest, except under the conditions set forth in section 557(b), Tariff Act of 1930, as amended (19 U.S.C. 1557(b)), prior to the amendments made thereto by Public Law 91-685, effective January 12, 1971 (T. D. 71-55).

Subpart D—Withdrawals from Warehouse

§ 144.31 Right to withdraw.

Withdrawals from bonded warehouse may be made only by the person primarily liable for the payment of duties on the merchandise being withdrawn, i.e., the importer of record on the warehouse entry, the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with § 141.20 of this chapter, or the transferee if the right to withdraw the merchandise has been transferred in accordance with subpart C of this part. No new declaration of the consignee or agent is required.

§ 144.32 Statement of quantity.

(a) *On each withdrawal.* Each withdrawal filed shall have indicated thereon, preferably in the lower part of the left-hand margin if there is no space designated on the form for such information, a summary statement of the account to which it is related. The statement shall indicate: (1) The quantity (i.e., the number of outer containers, or tons, etc.) in the warehouse account before the withdrawal; (2) the quantity being withdrawn; and (3) the quantity remaining in warehouse after the withdrawal. The quantity in each instance may be shown as a cumulative total event though it may include a group of varied units such as boxes, cases, or cartons, and may consist of more than one commodity, such as distilled spirits, chinaware, etc.

(b) *Transferred merchandise.* When all or a portion of an original lot has been transferred to a new owner in accordance with subpart C of this part, each withdrawal by the transferee shall show only the quantity on hand in the transferee's name before the withdrawal, the quantity being withdrawn by the transferee, and the transferred quantity remaining in the warehouse after the withdrawal. The quantity retained by the original importer and the quantity transferred shall be treated as separate accounts.

§ 144.33 Minimum quantities to be withdrawn.

Unless by special authority of the Commissioner of Customs, merchandise shall not be withdrawn from bonded warehouse in quantities less than an entire bale, cask, box, or other package, or, if in bulk, in quantities less than 1 ton in weight or the entire quantity imported, whichever is smaller. (Sec. 562, 46 Stat. 745, as amended; 19 U.S.C. 1562)

§ 144.34 Transfer to another warehouse.

(a) *At the same port.* With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred from one bonded warehouse to another at the same port under Customs supervision and at the expense of the importer upon his written request to the district director, who shall issue an order for such transfer on Customs Form 6043. All charges shall be paid before merchandise is transferred from a warehouse of class 1 (see § 19.1 of this chapter for classes of warehouses).

(b) *At another port.* Merchandise may be transferred to a warehouse which is under the jurisdiction of another port by withdrawing the merchandise for transportation in accordance with § 144.36 and entering it for rewarehouse in accordance with § 144.41 upon arrival at destination. All charges shall be paid before merchandise is transferred from the warehouse of class 1 (see § 19.1 of this chapter for classes of warehouses).

§ 144.35 Withdrawal of vessel and aircraft supplies and equipment.

Supplies and equipment for vessels and aircraft may be withdrawn from warehouse under the procedures set forth in this subpart and in § § 10.59 through 10.65 of this chapter.

§ 144.36 Withdrawal for transportation.

(a) *Time limit.* Merchandise may be withdrawn from warehouse for transportation to another port of entry if withdrawal for consumption or exportation can be accomplished at the port of destination before the expiration of the warehousing period, including any lawful extension thereof.

(b) *Physical deposit in warehouse not needed.* All or any part of the merchandise covered by an entry summary, Customs form 7502, may be withdrawn for transportation without deposit in a bonded warehouse and may be permitted to remain on the vessel or other vehicle or on the pier in a constructive warehouse status pending examination. When any such merchandise not deposited in a warehouse is not forwarded under the withdrawal for transportation on account of damage or other cause, the importer shall be required to withdraw such merchandise immediately for consumption or exportation, or designate a warehouse to which it may be sent and, upon his failure to do so, it shall be treated as unclaimed.

(c) *Form.* A withdrawal for transportation shall be filed on Customs Form 7512 in five copies, accompanied by Customs Form 7512-C in duplicate. An extra copy or copies of the Customs Form 7512 may be required for use in connection with the delivery of the merchandise to the bonded carrier and, in the case of alcoholic beverages, two extra copies shall be required for use in furnishing the duty statement to the district director at destination.

(d) *Information required.* In addition to the statement of quantity required by § 144.32, the Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original entry number, date of entry, date of entry summary, and port at which filed; **[TD 79-221.]**

(2) The name of the consignee at the port of destination; **[TD 79-221.]**

(3) Any ascertained weight, gauge, or measure; **[TD 79-221.]**

(4) The entered value of the merchandise; **[TDs 73-312, 79-221.]**

(5) Estimated duties, if any; **[TDs 713-312, 79-221.]**

(6) A statement that the merchandise is or is not admissible for consumption and the reason for non-admissibility, if applicable; and **[TDs 73-312, 79-221.]**

(7) The statistical information required by section 141.61(e) of this chapter. **[TD 79-221.]**

When the withdrawal is made after the merchandise has been rewarehoused, the rewarehouse entry number, date, and port at which filed also shall be shown. **[TD 79-221.]**

(e) *Duty on samples withdrawn.* The duty on any samples withdrawn at the original port from a shipment covered by a withdrawal for transportation shall be collected at such port and a notation thereof made on the withdrawal form. No separate invoice or extract from the original invoice shall be required to cover such samples.

(f) *Forwarding procedure.* The merchandise shall be forwarded in accordance with the general provisions for transportation in bond (§ § 18.1–18.8 of this chapter).

(g) *Procedure at destination.* Upon arrival at destination, the merchandise may be:

(1) Entered for rewarehouse in accordance with § 144.41;

(2) Entered for combined rewarehouse and withdrawal for consumption in accordance with section 144.42;

(3) Exported in accordance with paragraph (h) of this section; or

(4) Forwarded to another port or returned to the port of origin in accordance with § 18.5 (c) or (d) of this chapter.

(h) *Exportation.* A consignee of merchandise withdrawn for transportation who desires to export the merchandise upon arrival at destination shall so advise the district director at destination in writing. The district director shall then permit the exportation of the merchandise under Customs supervision in the same manner as a withdrawal for indirect exportation under § 144.37.

§ 144.37 Withdrawal for exportation.

(a) *Form.* A withdrawal for either direct or indirect exportation shall be filed on Customs Form 7512 (Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit) in 5 copies or on Customs Form 7506 (Warehouse Withdrawal Conditionally Free of Duty, and Permit) in 3 copies for merchandise being exported under cover of a TIR carnet, accompanied by Customs Form 7512-C (Transportation Entry and Manifest of Goods) in duplicate. Customs Form 7512 or Customs Form 7506 shall contain all of the statistical information as provided in § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7512 or 7506 for use in connection with the delivery of merchandise to the carrier. **[TD 73-312.]**

(b) *Procedure for indirect exportation.*

(1) *Forwarding.* Merchandise withdrawn for indirect exportation (transportation and exportation) shall be forwarded to the port of exportation in accordance with the general provisions for transportation in bond (§ § 18.1–18.8 of this chapter).

(2) *Splitting of shipments.* If any part of a shipment is not exported or if a shipment is divided at the port of exportation, extracts in duplicate from the manifest on file in the customhouse shall be made on Customs Form 7512 for each portion, one copy to be sent to the discharging inspector and the other to the lading inspector to be used as report of exportation. The splitting up for exportation of shipments arriving under warehouse withdrawals for indirect exportation shall be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. In the case of merchandise moving under cover of a TIR carnet, if the merchandise is not to be exported or if the shipment is to be divided, appropriate entry shall be required and the carnet discharged. The provisions of § § 18.23 and 18.24 of this chapter concerning change of destination or retention of merchandise on the dock shall also be followed in applicable cases.

(3) *Conversion to withdrawal for consumption.* A withdrawal for indirect exportation may be converted to a withdrawal for consumption upon request to the district director at the port where the withdrawal for indirect exportation was made.

(c) *Exportation by mail.* Merchandise may be withdrawn from warehouse for exportation by mail in accordance with the provisions of Subpart F of Part 145 of this chapter.

(d) *Marks on packages.* The exportation shall be made under the original marks of importation. Port marks may be added by authority of the district director under Customs supervision. The original and port marks shall appear in all Customs papers pertaining to the exportation.

(e) *Weight, gauge, or measure.* Merchandise in bulk and packaged articles which are customarily bought and sold by weight, gauge, or measure may be withdrawn for exportation or transportation only at the actual quantities ascertained at the time of the original entry for warehouse, except as otherwise provided for by law. In any case, the district director may require a special report of weight, gauge, or measure of the merchandise being exported if he deems it necessary. **[TD 80-142.]**

(f) *Merchandise not laden.* Merchandise withdrawn for exportation but not laden shall be sent to general order unless other disposition is prescribed by the district director. (Sec. 562, 46 Stat. 745, as amended; 19 U.S.C. 1562)

§ 144.38 Withdrawal for consumption.

(a) *Form.* Withdrawals for consumption of merchandise in bonded warehouses shall be filed on Customs Form 7505 (Warehouse Withdrawal for Consumption-Duty Paid), in triplicate, and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. **[TD 73-312.]**

(b) [Reserved] **[TD 78-329]**

(c) *Information to be shown on withdrawal.* Each withdrawal shall show all information for which spaces are provided on the withdrawal form, and shall also show the separate value of each package and the total dutiable value of the merchandise being withdrawn. In the case of merchandise in packages which are uniform in kind, quantity, value, and duty, the number of each package to be withdrawn need not be shown on the withdrawal if the lowest and highest numbers in the number series of such packages are shown. In the case of merchandise subject to quota, or textiles and textile products subject to levels of restraint, the description shall reflect any correction thereof reported after the filing of the warehouse entry. Additionally, on each withdrawal of cigars, cigarettes, or cigarette papers or tubes subject to internal revenue tax, the statement for tax purposes required by § 275.81 of the regulations of the Bureau of Alcohol, Tobacco, and Firearms (27 CFR 275.81) shall be made on the withdrawal form. **[TD 78-329]**

(d) *Deposit of estimated duties.* Estimated duties on the merchandise being withdrawn shall be deposited in accordance with subpart G of Part 141 of this chapter. The district director may increase or decrease the amount of estimated duties to be deposited on the final withdrawal to bring the aggregate amount of duties deposited into balance with the amount which he estimates will be finally due upon liquidation.

(e) *Permit for release of merchandise.* When the duties and other charges have been paid, a permit on Customs Form 7505-A shall be issued and delivered to the person making the warehouse withdrawal. When the permit is presented to the Customs warehouse officer, he shall release the merchandise to or upon the order of the warehouse proprietor in accordance with § 19.6 of this chapter, unless the person making the withdrawal requests, by endorsement on the permit, that release be withheld until he presents to the Customs warehouse officer an order to release on Customs Form 7505-B, or until the expiration of the warehouse bond period (see § 127.14(c) of this chapter). If partial release is desired, the order may cover only part of the merchandise specified in the permit, but not less than an entire package or, if in bulk, 1 ton in weight. Proprietors may be permitted to make copies of permits and orders to release. **[TD 74-114.]**

Subpart E—Rewarehouse Entries

§ 144.41 Entry for rewarehouse.

(a) *Applicability.* When merchandise which has been withdrawn from warehouse for transportation to another port has arrived at the port of destination, it may be entered for rewarehouse by the consignee named in the withdrawal.

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7502 (Warehouse or Rewarehouse Entry) and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7502-A (Warehouse or Rewarehouse Permit) for use in connection with the delivery of the merchandise to the warehouse. No declaration is required on the entry. **[TD 73-312.]**

(c) *Combining separate shipments.* Separate shipments consigned to the same consignee and received under separate withdrawals for transportation shall not be combined in one rewarehouse entry unless the warehouse withdrawals are from the same original warehouse entry.

(d) *Bond.* A bond on Customs Form 7555 or other appropriate form shall be filed before a permit is issued on Customs Form 7502-A for sending the merchandise to the bonded warehouse. However, no entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry, or if it is entered by a transferee who has established his right to withdraw the merchandise and has filed a bond in accordance with subpart C of this part.

(e) *Value and classification.* The duties determined at the port where the original warehouse entry was filed shall be the duties chargeable under the rewarehouse entry, except in the cases provided for in § § 159.7 (a) and (b) of this chapter, which pertain to certain classes of merchandise excluded from the liquidation of the original warehouse entry and merchandise on which rates of duty or tax are changed by an act of Congress or by a proclamation by the President.

(f) *Examination.* Any examination necessary for identification of the merchandise, determination of shortages, or other purposes shall be made.

(g) *Failure to enter.* If the merchandise is not entered before the expiration of 5 days after its arrival, it shall be sent to the general order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

(h) *Protest.* A protest may be filed at the port where the rewarehouse entry is made against a liquidation made at that port under § § 159.7 (a) or (b) of this chapter, or against a refusal of the district director of that port to liquidate pursuant to said sections. In all other cases, any protest shall be filed against the original warehouse entry.

§ 144.42 Combined entry for rewarehouse and withdrawal for consumption.

(a) *Applicability.* If the consignee of merchandise withdrawn for transportation wishes to pay duty and obtain possession of the merchandise immediately upon arrival at destination, he may make a combined entry for rewarehouse and withdrawal for consumption.

(b) *Procedure for entry.* The procedures set forth in § 144.41 are applicable to this type of entry, with the following exceptions:

(1) *Form of entry.* A combined entry for rewarehouse and withdrawal for consumption shall be made on Customs Form 7519 (Combined Rewarehouse Entry and Withdrawal for Consumption, and Permit), in 4 copies, and shall contain all of the statistical information as provided in § 141.61(e) of this chapter, one copy to be used as the permit. No declaration is required on the entry; **[TD 73-312.]**

(2) *Extra copy for Internal Revenue.* An additional copy of Customs Form 7519, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry of cigars, cigarettes, or cigarette papers or tubes, when the release from Customs custody of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to Customs; and

(3) *Deposit of duties.* Estimated Customs duties, taxes, and other charges, as set forth in subpart G of Part 141 of this chapter, shall be deposited upon presentation of the combined entry. The district director shall then issue a permit for release on Customs Form 7519.

PART 145—MAIL IMPORTATIONS

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Authority: R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (general headnote 11, Tariff Schedules of the United States), 1624. Additional authority and statutes interpreted or applied are cited in the text or in parentheses following the sections affected.

Source: T.D. 73-135, 38 FR 13369, May 21, 1973, unless otherwise noted.

§ 145.0 Scope.

The provisions of this part apply only to mail subject to Customs examination as set forth in this section 145.2. **[TD 78-102.]**

This part contains regulations pertaining specifically to the importation of merchandise through the mails but does not contain all the regulations applicable to mail importations. Importations by mail are subject to the same requirements and restrictions as importations by any other means, except where more specific procedures for mail importations are set forth in this part.

Subpart A—General Provisions

§ 145.1 Definitions.

(a) *Mail article.* "Mail article" means any posted parcel, packet, package, envelope, letter, aerogramme, box, card, or similar article or container, or any contents thereof, which is transmitted in mail subject to Customs examination. **[TD 78-102]**

(b) *Letter class mail.* "Letter class mail" means any mail article, including packages, post cards, and aerogrammes, mailed at the letter rate or equivalent class or category of postage.

(c) *Sealed letter class mail.* "Sealed letter class mail" means letter class mail sealed against postal inspection by the sender.

§ 145.2 Mail subject to Customs examination.

(a) *Restrictions.* Customs examination of mail as provided in paragraph (b) is subject to the restrictions and safeguards relating to the opening of letter class mail set forth in section 145.3. **[TD 78-102]**

(b) *Generally.* All mail arriving from outside the Customs territory of the United States which is to be delivered within the Customs territory of the United States and all mail arriving from outside the U.S. Virgin Islands which is to be delivered within the U.S. Virgin Islands, is subject to Customs examination, except—

(1) Mail known or believed to contain only official documents addressed to officials of the U.S. Government;

(2) Mail addressed to Ambassadors and Ministers (Chiefs of Diplomatic Missions) of foreign countries; and

(3) Letter class mail known or believed to contain only correspondence or documents addressed to diplomatic missions, consular posts, or the officers thereof, or to international organizations designated by the President as public international organizations pursuant to the International Organizations Act (see section 148.87(b) of this chapter). Mail, other than letter class mail, addressed to the designated international organization is subject to Customs examination except where the organization certifies under its official seal that the mail contains no dutiable or prohibited articles. Any Customs examination made shall, upon request of the addressee international organization, take place in the presence of an appropriate representative of that organization.

§ 145.3 Opening of letter class mail; reading of correspondence prohibited.

(a) *Matter in addition to correspondence.* Except as provided in paragraph (e), Customs officers and employees may open and examine sealed letter class mail subject to Customs examination which appears to contain matter in addition to, or other than, correspondence, provided they have a reasonable cause to suspect the presence of merchandise or contraband. **[TD 78-102.]**

(b) *Only correspondence.* No Customs officer or employee shall open sealed letter class mail which appears to contain only correspondence unless prior to the opening—

(1) A search warrant authorizing that action has been obtained from an appropriate judge or United States magistrate, or

(2) The sender or the addressee has given written authorization for the opening.

(c) *Reading of correspondence.* No Customs officer or employee shall read, or authorize or allow any other person to read, any correspondence contained in any letter class mail, whether or not sealed, unless prior to the reading—

(1) A search warrant authorizing that action has been obtained from an appropriate judge or United States magistrate, or

(2) The sender or the addressee has given written authorization for the reading.

(d) *Other types of correspondence.* The provisions of paragraph (c) shall also apply to correspondence between school children and correspondence of the blind which are authorized to be mailed at other than the letter rate of postage in international mail.

(e) *Certain Virgin Islands mail.* First class mail originating in the Customs territory of the United States and arriving in the U.S. Virgin Islands, which is to be delivered within the U.S. Virgin Islands, shall not be opened unless—

(1) A search warrant authorizing that action has been obtained from an appropriate judge or United States magistrate, or

(2) The sender or the addressee has given written authorization for the opening.

§ 145.4 Dutiable merchandise without declaration or invoice, prohibited merchandise, and merchandise imported contrary to law.

(a) *Subject to seizure and forfeiture.* When, upon Customs examination, a mail article from abroad is found to contain merchandise subject to duty or tax, and the package is not accompanied by an appropriate Customs declaration and invoice or statement of value required by § 145.11, or is found to contain material prohibited importation or imported contrary to law, the merchandise is subject to seizure and forfeiture. **[TD 78-102.]**

(b) *Mitigation of forfeiture.* Under the authority contained in section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), any forfeiture of merchandise subject to duty or tax (other than material prohibited importation) so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the district director that failure to properly declare the merchandise was due to willful negligence or an intent to defraud the revenue. If there is any such evidence, or if for any other reason the district director believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Commissioner of Customs for instructions.

(c) *Collection of mitigated forfeiture.* When the shipment does not exceed $250 in value, Customs Form 3419 or 5119-A shall be used for the entry of the merchandise, and the duty, any tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a mail article for which a mail fine entry has been issued in accordance with this paragraph is undeliverable, it will be returned to the district director at the port where the entry was issued, for disposition in accordance with § 145.59 relating to articles subject to seizure. **[TD 78-102.]**

(d) *Petition for relief.* The addressee or sender may file a petition with the district director at the port where the mail fine entry was issued in accordance with part 171 of this chapter for relief from the forfeiture incurred and for release of the seized merchandise, or for additional relief from a mitigated forfeiture. (62 Stat. 716, as amended, sec. 618, 46 Stat. 757, as amended; 18 U.S.C. 545, 19 U.S.C. 1618.)

§ 145.5 Undeliverable mail articles.

Mail articles which are refused or undeliverable, except mail articles for which a mail fine entry has been issued in accordance with § 145.4(c), will be marked by the postmaster to show why delivery was not made, and will be forwarded to the proper exchange post office for return to the country of origin. Mail entries will be removed from the mail articles and returned to Customs for cancellation. If, for any reason, an undeliverable mail article known or supposed to be dutiable is not returned to the country of origin or forwarded to another country in accordance with the Postal regulations, it will be delivered to Customs for disposition under the Customs laws and regulations governing seized or unclaimed merchandise. **[TD 78-102]**

Subpart B—Requirements and Procedures

§ 145.11 Declarations of value and invoices.

(a) *Customs declaration.* A clear and complete Customs declaration on the form provided by the foreign post office, giving a full and accurate description of the contents and value of the merchandise, shall be securely attached to at least one mail article of each shipment, including shipments of special classes of merchandise treated in subpart D of this part. Although a Customs declaration is required to be attached to only one mail article of each shipment, examination and release of the merchandise will be expedited if such a declaration is attached to each individual mail article. **[TD 78-102.]**

(b) *Invoice or statement of commercial value.* Each shipment of merchandise shall have an invoice or bill of sale (or, in the case of merchandise not purchased or consigned for sale, a statement of the fair retail value in the country of shipment), giving an accurate description and the purchase price of the merchandise, securely attached to the outside of the mail article, or enclosed therein. If the shipment consists of more than one mail article, a copy of the invoice should accompany each mail article, or else the invoice shall accompany the mail article bearing the declaration, and that mail article shall be marked "Invoice enclosed." **[TD 76-103, 78-102.]**

(c) *Special Customs invoice.* A special Customs invoice shall accompany a mail shipment when required by § 141.83 of this chapter. If a special Customs invoice accompanies the shipment, no other invoice or statement of value is required, although a Customs declaration is required in accordance with paragraph (a) of this section. **[TDs 73-175, 76-103]**

(d) *Shipments without declaration and invoice.* Shipment of merchandise which are not accompanied by a Customs declaration and invoice in accordance with paragraphs (a)-(c) of this section may be subject to seizure and forfeiture in accordance with § 145.4. (Secs. 481, 485, 498, 46 Stat. 719, 724, as amended, 728, as amended; 19 U.S.C. 1481, 1485, 1498).

§ 145.12 Entry of merchandise.

(a) *Formal entries*—(1) *Discretionary.* The district director may require formal entry of any mail shipment regardless of value if in his opinion it is necessary to protect the revenue.

(2) *Required.* Formal entry at the customhouse shall be required for every importation in the mails whixceeds $250 in value, except for special classes of merchandise which can be released without entry (see subpart D of this part), and except as provided in Subparts B and C of Part 143 and § 10.1 of this chapter. **[TD 73-175]**

(3) *Separate shipments.* Separate shipments not exceeding $250 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia), shall not be combined for the purpose of requiring formal entry, even though they reach Customs at the same time and are covered by a single order or contract in excess of $250, unless there was a splitting of shipments in order to avoid the payment of Customs duty.

(4) *Notice of formal entry requirement.* When a formal entry is required, the addressee shall be notified of the arrival of the shipment and of the place at which entry is to be made. If the shipment is addressed to a point which is not a Customs port or station, the port of entry specified in the notice shall be the port nearest the destination of the shipment. When a formal entry is filed, it shall contain all the statistical information as provided in § 141.61(e) of this chapter. **[TD 73-312]**

(b) *Mail and informal entries*—(1) *Preparation of entry form.* Except as provided in paragraphs (c) and (e) of this section, Customs officers shall prepare and attach a mail entry (Customs Form 3419) for each shipment not exceeding $250 in value which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up such a shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry (Customs Form 5119-A) and collect the duty in accordance with Subpart C of Part 143 of this chapter. **[TD 73-175, 78-394]**

(2) *Rates of duty.* Merchandise released under a mail or informal entry shall be dutiable at the rates of duty in effect when the preparation of the entry is completed by a Customs employee, ready for transmittal with the merchandise to the addressee.

(c) *Dutiable shipments not over $250 for Government agencies.* When a dutiable shipment not exceeding $250 in value is addressed to a U.S. Government department or agency, the district director may release the merchandise prior to the payment of duties under an entry on Customs Form 5119-A, upon the receipt of a stipulation in the form set forth in § 141.102(d) of this chapter. If the stipulation does not accompany the shipment, the district director shall notify the Government department or agency of the arrival of the shipment and request the stipulation. Upon receipt of the completed stipulation and preparation of the entry form, the district director shall stamp all mail articles in the shipment to show that they have received Customs treatment and shall return the shipment to the Postal Service for delivery, unless the addressee has arranged to pick up the shipment at the Customs office where it is being processed. The proper Government department or agency shall be billed later for any duties and taxes due. **[TD 73-175]**

(d) *Release without entry.* Certain types of merchandise may be passed free of duty without issuing an entry (see Subpart D of this part). (Secs. 315, 484, 498, 46 Stat. 695, as amended, 722, as amended, 728, as amended; 19 U.S.C. 1315, 1484, 1498.) **[TD 78-394]**

(e) *Unaccompanied shipments.*

(1) *Mail entry to be attached.*—If the requirements of section 148.115(a) of this chapter are met, Customs officers shall prepare and attach a mail entry, Customs Form 3419, for each shipment for which entry is claimed under item 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up the shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry, Customs Form 5119-A, and collect the duty in accordance with subpart C of part 143 of this chapter if the requirements of section 148.115(a) of this chapter are met. **[TD 78-394]**

(2) *Disposition of Customs Form 255.*—The Declaration of Unaccompanied Articles, Customs Form 255, affixed to the shipment shall be removed by the Customs officer and retained for Customs purposes. If a mail entry, Customs Form 3419, has been prepared, the mail entry number shall be noted on the Customs Form 255.

§ 145.13 Internal revenue tax on mail entries.

(a) *Method of collection.* Any internal revenue tax assessed on a mail entry shall be shown as a separate item on the entry, and collected in the same manner as Customs duties.

(b) *Release without payment of tax.* A mail entry may not be used to release a shipment of cigars, cigarettes, or cigarette papers or tubes for a manufacturer without payment of tax as provided for in 27 CFR Part 275 and § 11.2a of this chapter. If a claim for release without payment of tax is made by the addressee at the time of delivery, the shipment will be returned by the Postal Service to the port of entry or sent to the nearest Customs office at which appropriate release as claimed may be arranged by the addressee. **[TD 78-329]**

§ 145.14 Marking requirements.

(a) *Country of origin.* Merchandise imported by mail shall be marked with the country of origin in accordance with part 134 of this chapter. If merchandise without the required marking is to be delivered from the post office where it has been given Customs examination, the Customs officer shall require compliance with the marking law and regulations. If it is to be delivered from another post office, the Customs officer shall place in the envelope containing the mail entry a copy of Customs Form 3475, containing instructions to the postmaster concerning the marking to be required before delivery.

(b) *Other marking requirements.* Certain types of merchandise are subject to special marking requirements, such as those contained in the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Trademark Act. Since there is no provision for post office supervision of these types of marking, the district director shall require compliance with the law and regulations (see parts 11 and 133 of this chapter).

(c) *Failure to mark.* If the addressee fails to comply with the marking requirements, the package will be treated as undeliverable in accordance with § 145.5.

Subpart C—Administrative Review of Mail Entries

§ 145.21 Administrative review.

Requests for adjustment of the amount of duty assessed under mail entries shall be handled as requests for administrative review in accordance with this subpart.

§ 145.22 Procedures for obtaining administrative review.

If an addressee is dissatisfied with the amount of duty assessed under a mail entry, he may obtain administrative review in the following ways:

(a) He may pay the assessed duty, take delivery of the merchandise, and send a copy of the mail entry to the issuing Customs office indicated on the mail entry, together with a statement of the reason it is believed the duty assessed is incorrect. Any invoices, bills of sale, or other evidence should be submitted with the statement. The addressee may show the mail entry number and date on his statement instead of sending a copy of the mail entry, but this may result in delay since a copy of the entry will have to be obtained from the Regional Commissioner of Customs, New York, N.Y., before the entry can be amended.

(b) He may postpone acceptance of the shipment, and within the time allowed by the Postal regulations provide the postmaster with a written statement of his objections. The postmaster will forward the mail entry together with the addressee's statement and any invoices, bills of sale, or other evidence submitted by the addressee to the district director who issued the entry, and retain custody of the shipment until advice is received from the district director as to the disposition to be made. If the addressee is located near one of the ports at which Customs officers are authorized to review mail entries (see 39 CFR 10.5), the postmaster may send the mail entry to that port, together with the addressee's statement and evidence, for reconsideration by the district director. **[TD 78-99]**

(c) He may pay the assessed duty and take delivery of the merchandise, and file a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), in the form and manner prescribed in Part 174 of this chapter. (Secs. 501, 514, 46 Stat. 730, as amended, 734, as amended; 19 U.S.C. 1501, 1514.)

§ 145.23 Time limits.

A mail entry may be amended under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), only if the addressee requests such amendment within the time limits prescribed therein (see § § 173.4 and 173.5 of this chapter), and the claim is allowable under section 520(c). Requests for adjustment in the amount of duty assessed under mail entries made under § 145.22(a) shall be made in such time that the request can be acted upon by the district director within 90 days after receipt of the package and payment of the duties by the addressee. Protests under § 145.22(c) must be filed not later than 90 days after payment of the duties by the addressee, but may be acted upon after the expiration of that 90-day period. (Secs. 501, 514, 46 Stat. 730, as amended, 734, as amended; 19 U.S.C. 1501, 1514)

§ 145.24 Amendment of entry.

If the district director is satisfied that the objection is valid and timely, he shall amend the mail entry. If the duty has already been paid, the Regional Commissioner shall issue an appropriate refund of duty.

§ 145.25 Entry correct.

If the district director believes the duty originally assessed was correct, he shall send the addressee a notice in writing that the request for refund of duty has been denied. If the duty has not been paid, the mail entry shall be returned to the postmaster concerned, together with a copy of the notice sent to the addressee. The postmaster will then collect the duty and deliver the shipment, or, if the addressee refuses to pay the duty, will treat the shipment as undeliverable.

§ 145.26 Rates of duty not binding.

Rates of duty assessed on a mail entry, whether assessed on the original entry or as amendments Part 177, are not binding for future importations. A binding ruling on tariff classification may be obtained in accordance with the procedures set forth in § 152.14 of this chapter. **[TDs 73-175, 78-99.]**

Subpart D—Special Classes of Merchandise

§ 145.31 Importations not over $5 in value.

The district director shall pass free of duty and tax, without issuing an entry, mail articles containing merchandise having an aggregate fair retail value in the country of shipment of not over $5, subject to the requirements set forth in § 10.151 of this chapter. (Sec. 7, 52 Stat. 1081, as amended; 19 U.S.C. 1321.) **[TD 73-175, 78-102, 78-394]**

§ 145.32 Bona-fide gifts.

The district director shall pass free of duty and tax, without issuing an entry, articles sent as bona-fide gifts from persons in foreign countries to persons in the United States having an aggregate fair retail value in the country of shipment not exceeding $25 ($40, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), subject to the requirements set forth in § § 10.152 and 10.153 of this chapter. (R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 7, 52 Stat. 1801, as amended (19 U.S.C. 66, 1321, 1498, 16244)) **[TDs 73-175, 75-185, 78-394.]**

§ 145.34 Personal and household effects and tools of trade.

(a) *U.S. military and civilian personnel returning from extended duty abroad.* Section 148.74 of this chapter sets forth specific requirements for exemptions from duty under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), for personal and household effects of military and civilian personnel of the United States returning upon the completion of extended duty abroad. A copy of the official travel orders shall be attached to or enclosed in each mail article, and the outside of each mail article shall be clearly marked to show that exemption from duty is being claimed. **[TD 78-102]**

(b) *Other personal and household effects, and tools of trade.* Certain personal and household effects and tools of trade may be passed free of duty without issuing an entry, in accordance with § 148.53 of this chapter.

§ 145.35 United States products returned.

Products of the United States returned after having been exported, which have not been advanced in value or improved in condition while abroad, may be passed free of duty without issuing an entry and without an importer's declaration on Customs Form 3311, provided the shipment is valued at not over $250 and the district director is satisfied that the merchandise is free of duty under item 800.00, Tariff Schedules of the United States (19 U.S.C. 1202). (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498.)

§ 145.36 Articles for institutions.

Books and other articles classifiable under items 270.25, 273.10, 273.35, 765.03, 850.10, or 851.10, Tariff Schedules of the United States (19 U.S.C. 1202), imported by and addressed directly to a library or other institution described in item 850.10 or 851.10 may be passed free of duty without issuing an entry, if the district director is satisfied that the merchandise is entitled to free entry. A declaration on Customs Form 3321 may be required in accordance with § 10.43 of this chapter under the procedure specified in § 145.42. (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498.)

§ 145.37 Articles for the U.S. Government.

(a) *Mail articles for copyright.* Mail articles marked for copyright which are addressed to the Library of Congress, to the Copyright Office, or to the office of the Register of Copyrights, Washington, D.C., shall be passed free of duty without issuing an entry. **[TD 78-102]**

(b) *Books, engravings, and other articles.* Books, classifiable under item 270.25, Tariff Schedules of the United States (19 U.S.C. 1202), and engravings, etchings, and other articles enumerated in item 830.00, shall be passed free of duty without issuing an entry when they are addressed to the Library of Congress or any department or agency of the U.S. Government.

(c) *Official Government documents.* Other mail articles addressed to offices or officials of the U.S. Government, believed to contain only official documents, shall be passed free of duty without issuing an entry. Such mail articles, when believed to contain merchandise, shall be treated in the same manner as other mail articles of merchandise so addressed. (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498). **[TD 78-102]**

§ 145.38 Diplomatic pouches.

Mail articles bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates bearing such seal to the effect that they contain only official communications or documents, shall be admitted free of duty without Customs examination. (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498.) **[TD 78-102.]**

§ 145.39 Articles for diplomatic officers, representatives of international organizations, and foreign military personnel.

Free entry of articles in mail articles addressed to diplomatic officers, representatives of certain international organizations, and similar persons is governed by Subpart I of Part 148 of this chapter. **[TD 73-227, 78-102.]**

§ 145.40 Plant material imported for immediate exportation.

Plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Postal Service. This procedure shall not affect the movement of plant material in the internal mails through the United States:

(a) *Permit for entry.* Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the U.S. Department of Agriculture, and also by the postal form of Customs declaration.

(b) *Place of inspection.* Upon arrival, the shipment shall be detained by or redispatched to the postmaster at Washington, D.C., Brownsville, Tex., Hoboken, N.J., Honolulu, Hawaii, Laredo, Tex., Miami, Fla., San Francisco, Calif., San Juan, P.R., San Pedro, Calif., or Seattle, Wash., as may be appropriate, according to the address on the green and yellow tag, and there submitted to the Customs officer and the Federal quarantine inspector. The merchandise shall be accorded special handling only at these cities, and under no circumstances shall it be permitted to enter the commerce of the United States.

(c) *Special handling.* After inspection by the Customs and quarantine officers, and with their approval, the addressee or his authorized agent shall repack and readdress the mail article under Customs supervision; endorse and sign on the mail article a waiver of the addressee's right to withdraw the mail article from the mails; affix to the mail article the necessary postage; and comply with any other mailing and export requirements, after which the mail article shall be delivered under Customs supervision to the postmaster for exportation by mail in accordance with § 145.71. **[TD 78-102.]**

(d) *Entry not required.* It will not be necessary to issue a Customs mail entry nor to require a formal entry of the shipment.

§ 145.41 Other conditionally and unconditionally free merchandise.

Shipments of conditionally or unconditionally free merchandise not specifically treated elsewhere in this part may be passed free of duty and tax without issuing an entry, if the value is not over $250 and the district director is satisfied that the merchandise is entitled to free entry. (Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498.)

§ 145.42 Proof for conditionally free merchandise.

The district director may, at his discretion, require appropriate proof of duty-free status before releasing conditionally free merchandise. This proof may be obtained by either of the following methods:

(a) *Retain shipment and request proof.* The shipment may be retained by the district director while the necessary proof is requested from the addressee. If the requested proof is not received within 30 days, a mail entry shall be issued at the ordinary rate of duty which would apply if the merchandise were not conditionally free, and the mail entry shall be forwarded with the shipment for collection of duties.

(b) *Send shipment with form and entry.* If the only proof required for free entry is a declaration signed by the addressee, the district director may issue a mail entry at the ordinary duty which would apply if the merchandise were not conditionally free. The shipment shall then be forwarded together with the mail entry, a copy of the appropriate declaration form, and instructions to the postmaster to deliver the shipment free of duty if the importer executes the declaration, and to collect the full duty shown on the mail entry if the importer does not execute the declaration.

§ 145.43 Unaccompanied tourist shipments.

Unaccompanied tourist shipments for which entry is claimed under item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), may be passed free of duty and tax if the requirements of section 148.115(a) of this chapter are met. The Declaration of Unaccompanied Articles, Customs Form 255, shall be removed by the Customs officer from the shipment and retained for Customs purposes. **[TD 78-394]**

Subpart E—Restricted and Prohibited Merchandise

§ 145.51 Articles prohibited by section 305, Tariff Act of 1930.

(a) *Types of articles.* Various articles, as described in section 305, Tariff Act of 1930, as amended (19 U.S.C. 1305), and in part 12 of this chapter, are prohibited from importation. This prohibition includes the owing types of articles:

(1) Obscene matter;

(2) Articles for causing unlawful abortion (see § 145.52 for the treatment of literature pertaining to such articles);

(3) Matter advocating treason or insurrection against the United States or forcible resistance to any law of the United States;

(4) Matter containing any threat to take the life of or inflict bodily harm upon any person in the United States; and

(5) Lottery matter.

(b) *Disposition of articles.* Mail found to contain lottery matter shall be disposed of by the Postal Service under the postal laws and regulations. Mail found to contain any of the other prohibited articles described in paragraphs (a)(1) through (a)(4) of this section shall be given appropriate treatment by Customs under the Customs laws and regulations (see § 12.40 of this chapter). (Sec. 305, 46 Stat. 688, as amended; 19 U.S.C. 1305.)

§ 145.52 Literature concerning devices for unlawful abortion.

Mail articles containing literature or advertisements concerning devices to produce unlawful abortions, are prohibited from the mails by 18 U.S.C. 1461, and shall be retained by, or delivered to, the Postal Service for disposition under the postal laws and regulations. If the Postal Service determines in any case that it is proper to release the material to the addressee, it shall be submitted for Customs treatment before delivery. **[TDs 78-99, 78-102.]**

§ 145.53 Firearms and munitions of war.

Importations of firearms, munitions of war, and related articles are subject to the import permit requirements and other restrictions set forth in 27 CFR parts 47, 178, 179. **[TD 78-329]**

§ 145.54 Alcoholic beverages.

(a) *Nonmailable.* Alcoholic beverages are nonmailable, with certain exceptions (see 18 U.S.C. 1716 and the postal regulations), and when imported in the mails are subject to seizure and forfeiture under 18 U.S.C. 545.

(b) *Seizure.* When alcoholic beverages are received in the mails, they shall be seized, and the addressee shall be advised that they are subject to forfeiture and that he has a right to file a petition for their release (see part 171 of this chapter).

(c) *Conditions for release.* If the district director is satisfied that there was no fraudulent intent involved, he may release the alcoholic beverages to the addressee upon the following conditions:

(1) Applicable duty and internal revenue tax shall be paid.

(2) The addressee shall comply with the alcoholic beverage laws of the State to which the shipment is destined.

(3) Any other conditions the district director may impose under his authority to remit or mitigate fines, penalties, and forfeitures shall be complied with.

(4) The addressee, his representative, or a common carrier shall pick up the merchandise at the Customs office where it is being held. Since the merchandise is nonmailable, it cannot be delivered by the Postal Service (Sec. 618, 46 Stat. 757, as amended; 19 U.S.C. 1618.)

§ 145.55 Trademarks, trade names, and copyrights.

Merchandise bearing a trademark or trade name entitled to protection against imports, merchandise bearing a mark or name that copies or simulates such a trademark or trade name, and merchandise which is in violation of copyright law is subject to the restrictions and prohibitions set forth in part 133 of this chapter.

§ 145.56 Foreign Assets Control.

Merchandise subject to regulations of the Office of Foreign Assets Control of the Treasury Department prohibiting or restricting entry of unlicensed importations of articles directly or indirectly from North Korea, North Vietnam, Cuba, or Rhodesia shall be detained until licensed or the question of its release, seizure, or other disposition has been determined under the Foreign Assets Control or Cuban Assets Control regulations (31 CFR parts 500 and 515).

§ 145.57 Regulations of other agencies.

Certain types of plants and plant products, food, drugs, cosmetics, hazardous or caustic and corrosive substances, viruses, serums, and various harmful articles are subject to examination and clearance by appropriate agencies before release to the addressee (see part 12 of this chapter).

§ 145.58 Other restricted and prohibited merchandise.

Other restrictions and prohibitions pertaining to certain types of imported merchandise are set forth in part 12 of this chapter and applicable to importations by mail.

§ 145.59 Seizures.

(a) *Articles prohibited and contrary to law.* All mail shipments containing articles the importation of which is prohibited, or articles imported into the United States in any manner contrary to law, shall be seized or detained as appropriate and held by Customs officers for appropriate treatment, except for certain articles which will be handled by the Postal Service as specified in § § 145.51 and 145.52.

(b) *Notification of seizure or detention.* In all cases where articles are seized or detained by Customs officers, the addressee shall be notified of the seizure or detention, of the reason for such action, and, if appropriate, of his right to petition for relief (see part 171 of this chapter).

Subpart F—Exportation by Mail

§ 145.71 Exportation from continuous Government custody.

(a) *Relief from duties.* Merchandise imported into the United States, unless nonmailable, may be exported by any class of mail without the payment of duties, if:

(1) The merchandise has remained continuously in the custody of the Government (Customs or postal authorities); and

(2) The mail articles containing such merchandise are inspected and mailed under Customs supervision.

(b) *Waiver of right to withdraw.* Waiver of the right to withdraw the mail article from the mails shall be endorsed on each mail article to be so exported and signed by the exporter. **[TD 78-102.]**

(c) *Export entry orhdrawal required.* An export entry in accordance with § 18.25 of this chapter or a warehouse withdrawal for exportation in accordance with § 144.37 of this chapter, whichever is appropriate, shall be filed for merchandise being exported under this section, except for merchandise imported by mail which is either: **[TD 73-175, 78-102.]**

(1) Unclaimed or refused and being returned by the Postal Service to the country of origin as undeliverable mail; or

(2) For which a formal entry has not been filed and which is being remailed from continuous Customs or postal custody to Canada.

§ 145.72 Delivery to Customs custody for exportation.

In certain cases where merchandise has not been in continuous Government custody, delivery to Customs custody is appropriate before exportation by mail, as set forth in the following sections of this chapter:

(a) Section 10.8 (articles exported for repairs or alterations).

(b) Section 10.9 (articles exported for processing).

(c) Section 148.33 (merchandise which was imported free of duty under a personal exemption, found to be unsatisfactory, and is being exported for replacement).

(d) Section 10.38 (exportation of imported merchandise which was entered under a temporary importation bond).

(e) Section 22.33 (exportation of rejected imported merchandise, with drawback of duties).

Policy Statement

Examination of Sealed Letter Class Mail

A. Customs officers and employees shall not open first class mail arriving in the U.S. Virgin Islands for delivery there, if it originated in the Customs territory of the United States, unless a search warrant or written authorization of the sender or addressee is obtained. Customs officers or employees may open and examine all other sealed letter class mail which is subject to the Customs mail regulations (see 19 CFR Part 145) and which appears to contain matter in addition to, or other than, correspondence, provided they have "reasonable cause to suspect" the presence of merchandise or contraband. **[TD 78-102]**

B. Customs officers and employees shall not open any sealed letter class mail which appears to contain only correspondence unless a search warrant or written authorization of the sender or addressee is obtained in advance of the opening.

C. Customs officers and employees are prohibited from reading, or authorizing or allowing others to read, any correspondence contained in any letter class mail unless there has been obtained in advance either a search warrant or written authorization of the sender or addressee. This prohibition, which will continue to be strictly enforced, also applies to correspondence between school children and correspondence of the blind which are authorized to be mailed at other than the letter rate of postage in international mail.

D. If a violation of law is discovered upon opening any mail article referred to in paragraph C, and it is believed that the correspondence may provide additional information concerning the violation and is therefore needed for further investigation or use in court, a search warrant shall be obtained before any correspondence is seized, read, or referred to another agency. Search warrants shall be promptly sought. Correspondence may be detained while a search warrant is being sought.

E. If no controlled delivery is arranged and correspondence is not to be otherwise seized pursuant to a search warrant (see "F" below), the item which constitutes the violation shall be removed and any correspondence shall be replaced in the wrapper, or in a new wrapper if the original wrapper has been seized pursuant to 19 U.S.C. 1595a. The wrapper shall then be resealed, marked to indicate it was opened by Customs, and returned to postal channels. Appropriate seizure notices shall be sent in accordance with 19 CFR 145.59(b).

F. No mail article may be referred to another agency without a search warrant unless—

(1) Any correspondence has been removed and the mail article is being referred for examination and clearance under 19 CFR 145.57,

(2) Any correspondence has been removed and the mail article has been lawfully seized by Customs,

(3) The mail article is being referred to Postal Service channels to effect a controlled delivery in cooperation with other law enforcement agencies, or

(4) The mail article is being returned to Postal Service channels for normal processing.

G. Whenever sealed letter class mail is opened, the factors giving the Customs officer or employee "reasonable cause to suspect" the presence of merchandise or contraband shall be recorded on the appropriate form and on the opened envelope or other container by means of appropriate coded symbols. Should a seizure result, these factors shall also be recorded on the seizure report.

H. Sealed letter class mail with the green Customs label or a Customs declaration may be opened without additional cause. Correspondence in such mail is subject to the restrictions regarding the detention, reading, and referral of mail to other agencies found in paragraphs C through F.

I. Whenever any sealed letter class mail is opened for any of the reasons set forth in the above paragraphs, a Postal Service employee shall be present and shall observe the opening.

J. Any violation of the Customs mail regulations or any of these policies will lead to appropriate administrative sanctions, as well as possible criminal prosecution pursuant to 18 U.S.C. 1702.

Appendix

A. *Scope*

The Customs Service is authorized to examine, with certain exceptions for diplomatic and governmental mail, all mail arriving from outside the Customs territory of the United States (CTUS) which is to be delivered within the CTUS, and all mail arriving from outside the U.S. Virgin Islands which is to be delivered within the U.S. Virgin Islands. The term "Customs territory of the United States" is limited to the States, the District of Columbia, and Puerto Rico. Consequently, mail arriving from other U.S. territories and possessions is subject to Customs examination even though it is designated "domestic" mail for Postal Service purposes. Likewise, mail in the APO/FPO military postal system is subject to Customs examination, even though it also is designated "domestic" mail for Postal Service purposes. The Customs Service therefore is responsible for examining all international mail to be delivered in the CTUS and certain limited categories of so-called "domestic mail."

B. *Definitions.*

Under various international conventions and bilateral agreements, international mail falls within two main classes, Parcel Post and Postal Union mail.

Parcel Post is not permitted to contain correspondence but is to be used for the transmission of merchandise and is fully subject to Customs examination in the same manner as other merchandise shipments (e.g., luggage, cargo, containers, etc.). Postal Union mail is divided into "LC" mail (Lettres et Cartes) and "AO" mail (Autres Objets).

"LC" mail consists of letters, packages paid at the letter rate of postage, post cards, and aerogrammes. The term "letter class mail" as used in the Customs Regulations and in this policy statement means "LC" mail as well as equivalent articles in "domestic" mail subject to Customs examination. Equivalent articles in "domestic" mail would include articles mailed at the letter rate, or equivalent class or category, in the APO/FPO military system or from a U.S. territory or possession outside the CTUS. Since the term "letter class mail" thus includes packages and bulky envelopes as long as they are mailed at the letter rate, or equivalent class or category, the restrictions relating to opening and reading of correspondence apply equally to such packages or bulky envelopes.

"AO" mail is to be treated in the same manner as Parcel Post mail since the Universal Postal Union Convention requires that they "be made up in such a manner that they may be easily examined" and generally are not permitted to "contain any document having the character of current and personal correspondence." Exceptions to the latter requirement exist for matter for the blind and certain correspondence between school children. Because of these exceptions, the prohibition against reading correspondence without a search warrant or authorization of the sender or addressee applies to correspondence of the blind and correspondence between school children contained in "AO" mail. "AO" mail can usually be identified by the following words: "IMPRIME" or "PRINTED MATTER," "CECOGRAMME" or "LITERATURE FOR THE BLIND," "PETIT PAQUET" or

"SMALL PACKET" or similar terms or their equivalents.

C. *Reasonable Cause to Suspect*

Determining whether there is "reasonable cause to suspect" that merchandise or contraband is contained in sealed letter class mail is ultimately a matter of judgment for each Customs official, based on all relevant facts and circumstances. This judgment should be exercised within the framework of the Customs regulation that sealed letter class mail which appears to contain only correspondence is not to be opened unless a search warrant or written authorization from either the sender or the addressee has been obtained in advance of the opening.

Past practice indicates that the following circumstances (which are illustrative and not exhaustive) provide "reasonable cause to suspect" and permit the opening of sealed letter class mail without a search warrant or authorization of the sender or addressee.

1. A detector dog has alerted to the presence of narcotics or explosives in a specific mail article.
2. X-ray or fluoroscope examination indicates the presence of merchandise or contraband.
3. The weight, shape, feel, or sound of the mail article or its contents may indicate that merchandise or contraband (e.g., a hard object which may be jewelry, a stack of paper which may be counterfeit money, or coins) could be in the mail article. Contents of a mail article which feel lumpy, powdery, or spongy may, for example, indicate the presence of narcotics.
4. Information from a source previously shown to be reliable indicates that an identifiable mail article contains merchandise or contraband.
5. The mail article is insured.
6. The mail article is a box, carton, or wrapper other than a thin envelope.
7. The sender or addressee of the mail article is known to be fictitious.

On the other hand, certain facts standing alone generally will not provide "reasonable cause to suspect" the presence of merchandise or contraband and therefore do not permit the opening of sealed letter class mail. For example, sealed letter class mail may not be opened merely because:

1. The mail article is registered.
2. The feel of a letter-size envelope suggests that it contains one or a limited number of photographs.
3. The mail article appears to be part of a mass mailing.
4. The mail article is from a particular country, whether or not a known source country of contraband.
5. A detector dog has alerted to the presence of narcotics or explosives somewhere within a tray of mail (the individual articles of mail must then be examined individually).
6. The sender or addressee of the mail article is known to have mailed or received contraband or merchandise in violation of law in the past.
7. The wrapper contains writing or typing similar to that previously found on articles of mail which contained contraband or merchandise in violation of law.

In cases where any one of the above facts is present, additional evidence must exist which in conjunction with that fact provides reasonable cause to suspect the presence of merchandise or contraband.

PART 146—FOREIGN-TRADE ZONES

Sec.

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Authority: R.S. 251, secs. 1–21, 48 Stat. 998, 999, as amended, 1000, 1002, as amended, 1003, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnote 11), 1624.

Source: T.D. 70-134, 35 FR 9262, June 13, 1970, unless otherwise noted.

§ 146.0 Scope.

Foreign-trade zones are established under the Foreign-Trade Zones Act and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. This Part 146 of the Customs Regulations governs the admission of merchandise into a foreign-trade zone, manipulation, manufacture, or exhibition in a zone; exportation of the merchandise from a zone; and transfer of merchandise from a zone into Customs territory. **[TD 70-134.]**

Subpart A—General Provisions

§ 146.1 Definitions.

The following are general definitions for the purposes of this part:

(a) *Act.* "Act" means the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–81u).

(b) *Board.* "Board" is the Foreign-Trade Zones Board established by the Foreign-Trade Zones Act to carry out the provisions of the Act.

(c) *Customs territory.* "Customs territory" is the territory of the United States in which the general tariff laws of the United States apply but which is not included in any zone. "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico. (Gen. Hdnote 2, Tariff Schedules of the United States.)

(d) *Grantee.* "Grantee" is a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board.

(e) *Merchandise.* "Merchandise" includes goods, wares, and chattels of every description, except prohibited articles.

(1) *Domestic merchandise.* "Domestic merchandise" is that which has been (i) produced in the United States and not exported therefrom,[1] or (ii) previously imported into Customs territory and properly released from Customs custody.

(2) *Foreign merchandise.* "Foreign merchandise" is imported merchandise which has not been properly released from Customs custody in Customs territory.

(f) *Zone.* "Zone" is a foreign-trade zone established under the Foreign-Trade Zones Act.

§ 146.2 Designation of District Director as Board Representative.

The district director in whose district the zone is located shall be in local charge of the zone as the resident representative of the Board.

§ 146.3 Assignment of Customs Officers.

The district director in whose district the zone is located shall assign the necessary Customs officers and guards to maintain appropriate Customs control over merchandise in the zone and to protect the revenue.

§ 146.4 Reimbursement of Customs expenses.

The cost of providing the additional Customs services required under the Act or the regulations in this part shall be reimbursed to the Government by the grantee, payment to be made monthly to the district director.

§ 146.5 Permission of grantee required.

(a) *Written concurrence necessary.* Applications for permission to transfer merchandise into a zone, to do anything involving merchandise in a zone, or to remove merchandise from a zone shall show the written concurrence of the grantee, except where the regulations in this part provide for the making of applications by the grantee itself or permit the grantee to file a separate specific or blanket approval.

(b) *Questioning grantee's concurrence.* Government officers acting in their official capacities may question the grantee's concurrence if in their opinion it was improperly given.

§ 146.6 Authority to examine merchandise.

The district director may cause any merchandise in a zone to be examined at the time of admission, or at any time thereafter, if the examination is deemed necessary to facilitate the proper administration of any law, regulation, or instruction which the Customs Service is authorized to enforce.

§ 146.7 Transportation of merchandise to a zone.

(a) *From outside Customs territory.* Merchandise may be brought directly to a zone from any place outside Customs territory.

(b) *Through Customs territory; foreign merchandise.* Foreign merchandise destined to a zone and transported in bond through Customs territory shall be subject to the laws and regulations applicable to other merchandise transported in bond between two places in Customs territory.

(c) *From Customs territory; domestic merchandise.* Domestic merchandise may be brought to a zone from Customs territory by any means of transportation which will not interfere with the orderly conduct of business in the zone.

§ 146.8 Use of zone by carriers.

(a) *Primary use; lading and unlading.* The water area docking facilities, and any loading and unloading stations of a zone are intended primarily for the unlading of merchandise into the zone or the lading of merchandise for removal from the zone. Their use for other purposes may be terminated by the Secretary of the Treasury if found to endanger the revenue or by the Board if found to impede the primary uses of the zone.

(b) *Carriers in zone not extent from law or regulation.* Nothing in the Act or the regulations in this part shall be construed as excepting any carrier entering, remaining in, or leaving a zone from the application of any other pertinent law or regulation.

Subpart B—Admission of Merchandise to a Zone

§ 146.11 Merchandise permitted in a zone.

Merchandise of every description, including over-quota merchandise, may be brought into a zone unless prohibited by law. A distinction is made between prohibited and conditionally admissible merchandise.

(a) *Prohibited merchandise.* Prohibited merchandise is merchandise which is prohibited by law on the grounds of policy or morals, such as books or pictures urging treason or insurrection against the United States, obscene books or pictures and lottery matter. District directors are required to exclude this class of articles and shall not permit them to be transferred to a zone if aware of their prohibition status. If there is a question as to whether the merchandise is prohibited, district directors may permit the temporary deposit of the merchandise in a zone pending a final determination of its status. Any prohibited merchandise which is found within a zone shall be disposed of in the manner provided for in the laws and regulations applicable to such merchandise.

(b) *Conditionally admissible merchandise.* Conditionally admissible merchandise is merchandise which may be imported under certain conditions, for example, articles which are subject to permits or licenses or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. The admission of articles of this class into a zone is subject to any requirements of the Federal agency concerned.

§ 146.12 Application and permit for admission of merchandise.

(a) *Application on zone Form D and permit.* Except in the case of entered merchandise brought into a zone for manipulation (§ 146.13) and merchandise transiting a zone (§ 146.14), merchandise may be admitted into a zone only upon application on zone Form D, Application to Admit Merchandise into Foreign-Trade Zone, and the issuance of a permit by the district director.

(b) *Documents in support of application*—(1) *Merchandise transported through Customs territory.* For foreign merchandise arriving at a zone after transportation through Customs territory the application shall be supported by:

(i) *Release order.* A release order on the application or another document executed by the carrier which brought the goods to the port where the zone is located authorizing the transfer of the merchandise to the zone; and

(ii) *Evidence of right to make entry.* A document or documents like those which would be required of the applicant as evidence of his right to make entry for merchandise in Customs territory (see § 141.11 of this chapter). **[TD 73-175.]**

(2) *Merchandise unladen directly from the importing carrier.* For merchandise unladen in the zone directly from the importing carrier the application on zone Form D shall be supported by an application to unlade on Customs Form 3171 (§ 146.14(a)).

(c) *Conditions for issuance of a permit.* Merchandise for which an application to admit merchandise to a zone is made shall be admitted when:

(1) The application is properly executed and includes an indication of the desired zone status of the merchandise (i.e., privileged foreign, privileged domestic, nonprivileged foreign, nonprivileged domestic, or zone-restricted merchandise as provided for in Subpart C of this part);

(2) The grantee's approval appears either on the application or in a separate specific or blanket approval (§ 146.5); and

(3) The permit is granted by the district director as the representative of the Board.

§ 146.13 Temporary admission for manipulation.

Imported merchandise for which an entry has been made and which has remained in continuous Customs custody may be admitted temporarily to a zone for manipulation and return to Customs territory under Customs supervision pursuant to section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562) and § 19.11 of this chapter. Such merchandise shall not be considered within the purview of the Act but shall be treated as though remaining in Customs territory. No zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the zone to such requirements as are necessary for the enforcement of section 562 and other pertinent Customs laws.

§ 146.14 Merchandise transiting a zone.

The following procedures are applicable when merchandise is to be unladen from any carrier in the zone for immediate transfer to Customs territory, or if it is to be transferred from Customs territory through the zone for immediate lading on any carrier in the zone:

(a) *Application.* Application for permission to lade or unlade shall be filed with the district director on Customs Form 3171 prior to transfer of the merchandise into the zone.

(b) *Permit.* The district director shall permit the transfer unless he has reason to believe that the merchandise will not be moved promptly from the zone or made the subject of an application for zone statute on zone Form D in accordance with § 146.12.

(c) *Treatment of merchandise.* Upon the issuance of a permit to lade, or unlade, the merchandise shall not be considered within the purview of the Act but shall be treated as though the lading or unlading were in Customs territory.

(d) *Failure to lade merchandise without delay.* Merchandise brought into a zone for lading on a carrier but not laden without a delay which will endanger the revenue must be made the subject of an application for zone status on zone Form D in accordance with § 146.12 or be removed from the zone.

§ 146.15 Certificate of arrival of merchandise.

Whenever a certificate as to the arrival of any merchandise in a zone is required by a Federal agency, the district director shall issue the certificate, properly describing and identifying the merchandise involved.

Subpart C—Status of Merchandise in a Zone

§ 146.21 Privileged foreign merchandise.

(a) *Merchandise subject to the provisions of this section.* Foreign merchandise which has not been manipulated or manufactured so as to effect a change in tariff classification shall be given status as privileged foreign merchandise on proper application to the district director.

(b) *Application.* Each application for this status shall be made on zone Form B at the time of filing the application on zone Form D (see § 146.12) for admission of the merchandise into a zone or at any time thereafter before the merchandise has been manipulated or manufactured in the zone in a manner which has effected a change in tariff classification.

(c) *Zone Customs entry.* Each applicant for such status shall file a zone Customs entry on Customs Form 7502 with his application.

(1) *Evidence of right to make entry.* The original of a properly approved application on zone Form B is acceptable as the equivalent of a bill of lading or carrier's certificate to identify the applicant on such Form B as the consignee of the merchandise and its owner for Customs purposes, except that such person may transfer the right to withdraw such merchandise from the zone to Customs territory in accordance with Subpart E of this part.

(2) *Preparation, filing, and processing of the entry.* The procedure in connection with the preparation, filing, and processing of the entry, including the making of notations on invoices, the designation of examination packages or quantities, and the examination and appraisement of the merchandise shall be the same as that prescribed in the case of an entry for warehouse made in Customs territory (see Part 144 of this chapter), except that no bond shall be required. **[TD 75-209.]**

(3) *Procedure upon acceptance of the entry.* Upon acceptance of the entry the district director shall have the merchandise appraised, classified taxes determined, and duties liquidated promptly.

(i) *Appraisement and tariff classification.* The merchandise shall be subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date of filing, in complete and proper form, the request for privileged foreign status on zone Form B and the zone Customs entry which is required to accompany it.

(ii) *Basis of valuation.* The value of the merchandise shall be determined in accordance with sections 402, 402a, and 503 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402, 1503), and related provisions of law. For all Customs purposes, the date of exportation of the merchandise from the country whence it was exported to the United States is the date of its final departure from that country, in accordance with § 152.1(c) of this chapter. **[TD 73-175.]**

(iii) *Amendment of value.* The value declared in any zone Customs entry for merchandise may be amended in accordance with the provision of section 487, Tariff Act of 1930 (19 U.S.C. 1487), and the regulations thereunder (see § 141.90(c) of this chapter). **[TD 73-175.]**

(iv) *Merchandise subject to tariff-rate import quotas.* Entries for merchandise subject to tariff-rate import quotas shall be liquidated only at the higher or non-quota rate.

(v) *Determination of taxes.* The taxes to be determined are those of the same nature as are indicated in the liquidation of entries of imported merchandise in Customs territory.

(d) *Status as privileged foreign merchandise binding.* A status as privileged foreign merchandise and the consequent determination of taxes and liquidation of duties cannot be abandoned. The taxes and duties remain applicable to the merchandise even if changed in form by manipulation or manufacture, except in the case of recoverable waste (see § 146.48), as long as the merchandise remains within the purview of the Act. However, privileged foreign merchandise may be exported or withdrawn for supplies, equipment, or repair material of vessels or aircraft without the payment of the determined taxes and liquidated duties, in accordance with §§ 146.41, 146.42, and 146.45(d).

(e) *Procedures for protest.* The requirements, privileges, and procedures of notices of appraisement, posting of liquidations, and protests against decisions of the district director relating to privileged foreign merchandise are the same as those prescribed in the case of merchandise covered by an entry for warehouse in Customs territory. **[TD 70-181.]**

(f) *Permission to manipulate, manufacture, or exhibit.* Application may be made pursuant to § 146.32 for permission to manipulate, manufacture, or exhibit the merchandise before taxes have been determined and duties liquidated thereon, but in such case the examination for purposes of appraisement must be completed, or the packages or samples required for such examination must be segregated, before the district director approves the application.

§ 146.22 Privileged domestic merchandise.

(a) *Merchandise subject to the provisions of this section.* Privileged domestic status may be granted to merchandise:

(1) The growth, product, or manufacture of the United States on which all internal-revenue taxes, if applicable, have been paid;

(2) Previously imported and on which duty and/or tax has been paid; or

(3) Previously admitted free of duty and tax.

(b) *Application.* Application for privileged domestic status shall be included in the application on zone Form D (§ 146.12) to transfer the merchandise into the zone, but the documents in support of the application described in § 146.12(b) are not required.

(c) *Domestic packing and repair materials.* If the district director is satisfied that the revenue will be protected, and the rights of importers will not be prejudiced, he may permit the transfer to a zone of domestic packing and repair materials and related articles without requiring an application on zone Form D.

(d) *Return of merchandise to Customs territory.* Upon compliance with this section and § 146.44, any of the foregoing merchandise may subsequently be returned to Customs territory free of quotas, duty, or tax.

§ 146.23 Nonprivileged foreign merchandise.

All of the following shall have the status of nonprivileged foreign merchandise:

(a) Foreign merchandise properly in a zone which does not have the status of privileged foreign merchandise or of zone-restricted merchandise;

(b) Waste recovered from any manipulation or manufacture of privileged foreign merchandise in a zone; and

(c) Domestic merchandise in a zone which by reason of noncompliance with these regulations has lost its identity as domestic merchandise and will be treated as foreign merchandise if transferred to Customs territory. Any domestic merchandise shall be deemed to have lost its identity if the district director determines that it cannot be identified positively by Customs officers as domestic merchandise on the basis of their examination of the articles and their consideration of any proof that may be submitted promptly by a party in interest.

§ 146.24 Nonprivileged domestic merchandise.

All merchandise which could have obtained the status of privileged domestic merchandise but for which no application for such status has been approved (not including any merchandise within the purview of § 146.23(c)) shall have the status of nonprivileged domestic merchandise.

§ 146.25 Zone-restricted merchandise.

(a) *Merchandise subject to the provisions of this section.* Articles taken into a zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be given zone-restricted status on proper application. Such articles may not be returned to Customs territory for domestic consumption except where the Board deems such return to be in the public interest (see § 146.47).

(b) *Application.* Application for zone-restricted status shall be included in the application on zone Form D to transfer the merchandise into the zone as provided for in § 146.12.

(c) *Merchandise considered exported*—(1) *For Customs purposes.* If the applicant desires a zone-restricted status in order that the merchandise may be considered exported for the purpose of any Customs law, all pertinent Customs requirements relating to actual exportations shall be complied with as though the admission of the merchandise into the zone constituted a lading on an exporting carrier at a port of final exit from the United States. Any declaration or form required for actual exportation shall be modified to show that the merchandise has been deposited in a zone in lieu of actual exportation, and a copy of the approved zone Form D may be accepted in lieu of any proof of shipment required in cases of actual exportation.

(2) *For other purposes.* If the merchandise is to be considered exported for the purpose of any Federal law other than the Customs laws, the district director shall be satisfied that all pertinent laws, regulations, and rules administered by the Federal agency concerned have been complied with before he approves the application on zone Form D.

(d) *Merchandise entered for warehousing transferred to a zone.* Merchandise entered for warehousing and transferred to a zone, other than temporarily for manipulation and return to Customs territory as provided for in § 146.13, shall have the status of zone-restricted merchandise when admitted into the zone. The application on zone Form D shall state that zone-restricted status is desired for the merchandise.

Subpart D—Handling of Merchandise in a Zone

§ 146.31 Customs control of merchandise in a zone.

(a) No merchandise shall be removed from a zone in any manner or for any purpose except as provided for in the regulations in this part.

(b) If the district director deems it necessary for the protection of the revenue, he may require segregation of any merchandise he determines to be subject to special risks to the revenue.

(c) The grantee shall keep the district director currently informed as to the location of any merchandise in the zone which is not within the purview of paragraph (b) of this section, and shall notify the district director promptly of any loss or damage that may occur to any merchandise in the zone.

§ 146.32 Manipulation, manufacture, or exhibition in a zone.

(a) *Application*. Permission for manipulation, manufacture, or exhibition of merchandise in a zone may be obtained by filing with the district director an application on zone Form E. No such operation shall be carried on until the district director has approved the application. The application shall include:

(1) A full description of the proposed operation;

(2) A designation of the exact place in the zone where the operation is to be performed;

(3) The identification of the involved merchandise by lot number, marks and numbers of the packages, description, quantity, and zone status; and

(4) In the case of manipulation or manufacture, a statement as to whether articles with one zone status are to be packed, commingled, or combined with articles having a different zone status.

(b) *Approval of application*. The district director shall approve the application unless the proposed operation would be in violation of the fourth or fifth proviso to section 3 of the Foreign-Trade Zones Act, as amended, 19 U.S.C. 81c, or the place designated for its performance is not suitable for preventing confusion as to the identity or status of the merchandise and for safeguarding the revenue.

(1) *Fourth proviso*. The proviso reads as follows:

> That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of—
>
> (a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930 as amended, and the regulations thereunder; and
>
> (b) The statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.
>
> Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable.
>
> Such articles may not be returned to Customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615(f) of section 1201 of this title: * * *.

(2) *Fifth proviso*. The proviso reads as follows:

> That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section 1807 of Title 26 and chapter 15-17, 21, 23-26, or 32 of Title 26, if performed in Customs territory, or involving the manufacture of any article provided for in paragraphs 367 and 368 of section 1001 of this title, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were permissible under this chapter prior to July 1, 1949: * * *.

(For current reference to title 19 and 26 of the United States Code, see notes following text of 19 U.S.C. 81c)

(c) *Appeal of adverse ruling*. If the application is denied by the district director for any reason, the applicant or the grantee may appeal the adverse ruling to the Board. If any revenue protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

(d) *Records to be maintained*—(1) *Privileged merchandise*. When any privileged merchandise is to be manipulated in any way or manufactured, the person performing the operation shall maintain records containing the following information:

(i) A full identification, as specified in paragraph (a) of this section, of each lot of privileged merchandise used in the operation;

(ii) The unit and total values of each such lot, the values in the case of privileged foreign merchandise to be those declared in the zone Customs entry (§ 146.21(c)), including any amendment thereof;

(iii) The commercial name or description of the product resulting from the operation, or of each such product if there are more than one;

(iv) The quantity of such product or of each such product, as the case may be;

(v) The commercial name or description and quantity of each kind of waste recovered from the operation; and

(vi) The description (i.e., evaporation, leakage, spillage, dust, etc.) and quantity of each kind of loss resulting from the operation.

(2) *Nonprivileged merchandise*. If any nonprivileged merchandise is to be used in the operation, records shall be maintained containing a full identification, as specified in paragraph (a) of this section, and the unit and total values of each lot of the merchandise used in the operation.

§ 146.33 Destruction of merchandise in a zone.

(a) *Application*. Each application to destroy merchandise in a zone shall be filed with the district director on zone Form E. The application shall include:

(1) A description of the proposed method of destruction;

(2) A designation of the place where the destruction is to be accomplished; and

(3) The identification of the involved merchandise by lot number, marks and numbers of the packages, description, quantity, and zone status.

(b) *Approval of application and procedure for destruction of merchandise*. The destruction of distilled spirits, wines, and fermented malt liquors having a zone-restricted status may not be authorized in view of the exception in the fourth proviso to section 3 of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81c). In any other case, if the district director is satisfied that the destruction will be effective and that the revenue will be adequately protected, he shall approve the application. If proper destruction cannot be effectively accomplished within the zone, the district director may permit it to be done elsewhere, in whole or in part, under such conditions as he shall specify for protecting the revenue. Any residue of destruction which is entirely worthless may be removed to Customs territory for disposal.

Subpart E—Removal of Merchandise From a Zone.

§ 146.41 Direct exportation from a zone.

Regardless of its zone status, any merchandise in a zone may be exported directly therefrom upon compliance with the procedure prescribed in § 146.44 for the transfer of privileged domestic merchandise to Customs territory.

§ 146.42 Supplies, equipment, and repair material for vessels or aircraft.

(a) *Applicability.* Any article which may be withdrawn duty and tax free in Customs territory under section 309 or 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317) and § § 10.59 through 10.65 of this chapter may similarly be withdrawn from a zone, regardless of its zone status, under said statutes and regulations. Privileged domestic merchandise is not subject to the provisions of this section and may be withdrawn from a zone in accordance with the provisions of § 146.44.

(b) *Articles for delivery within zone where withdrawn.* The withdrawal of articles provided for in paragraph (a) of this section for delivery within the zone where withdrawn to a qualified vessel or aircraft, or as ground equipment of a qualified aircraft, shall be on Customs Form 7512 (see § 10.60 of this chapter).

(1) *Who may make the withdrawal.* The withdrawal of articles composed in whole or in part of privileged foreign merchandise shall be made by the person identified on zone Form B as the consignee (see § 146.21(c)(1)). The withdrawal of all other articles under this section shall be made by the person designated as the consignee by the written authorization of the grantee.

(2) *Supporting documents*—(i) *Description.* The withdrawal shall be supported by a description of the articles similar to that provided for in § 146.44(a).

(ii) *Bond.* A bond on Customs Form 7557, 7559, or 7595 shall be required with the withdrawal.

(3) *Release of articles.* Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery to the qualified vessel or aircraft in the zone.

(c) *Articles for delivery outside zone where withdrawn.* The withdrawal of articles provided for in paragraph (a) of this section for delivery at a place outside the zone to a qualified vessel or aircraft, or as ground equipment of a qualified aircraft, shall be on Customs Form 7512. (See § 10.60 of this chapter.)

(1) *Who may make the withdrawal.* The withdrawal of privileged foreign merchandise which has not been mixed, combined, or repacked in the zone or of a product of a manipulation or manufacture in a zone composed of or derived from privileged merchandise only, whether all foreign, or partly foreign and partly domestic, shall be made by the person named on zone Form B as the consignee or by a transferee designated on the withdrawal and approval by the grantee. (See § 146.45(b)(2)). The withdrawal of other articles under this section shall be made by the person designated by the grantee on zone Form C as the consignee. Except for articles described in the first sentence of this paragraph the provisions of § 146.47 (b) through (f) and § 146.48(b) relating to constructive transfer are applicable, whether or not the merchandise is zone restricted.

(2) *Bond.* The withdrawal shall be supported by a bond on Customs Form 7557, 7559, or 7595.

(3) *Acceptance of withdrawal and release of merchandise.* Upon acceptance of the withdrawal of the district director shall note thereon the status of the merchandise and shall release the merchandise to the grantee for delivery to the bonded cartman, lighterman, or carrier.

§ 146.43 Transfer of merchandise from one zone to another.

(a) *Privileged domestic merchandise.* The transfer of privileged domestic merchandise from one zone to another is not subject to Customs control except that the removal of the merchandise from the first zone and its admission into the zone of destination shall be in accordance with § § 146.44 and 146.12.

(b) *Other merchandise*—(1) *Procedure.* The transfer of merchandise, other than privileged domestic merchandise, from a zone at one port of entry to a zone at another port shall be by bonded carrier under an entry for immediate transportation on Customs Form 7512. All copies of the entry for immediate transportation shall bear a notation that the merchandise is being taken from the first zone for the purpose of transfer to the second zone. Privileged foreign merchandise which has not been mixed, combined, or repacked in the zone and products of a manipulation or manufacture in a zone composed of or derived from privileged merchandise, whether all foreign, or partly foreign and partly domestic, shall be transferred from the zone in accordance with § 146.45(c) (1)-(4) and admitted to the second zone in accordance with § 146.12. The transfer of other merchandise from the first zone into Customs territory and its admission into the zone of destination shall be in accordance with § § 146.48(b) and 146.12.

(2) *Forwarding of history of the merchandise.* Upon removal of merchandise as specified in paragraph (b)(1) of this section from the first zone, the district director of the port where such zone is located shall immediately forward to the district director of the port where the zone of destination is located a history of the merchandise as shown by the records of the first zone.

§ 146.44 Transfer of privileged domestic merchandise into Customs territory.

(a) *Submission of description of transaction.* When privileged domestic merchandise which has not been mixed, combined or repacked in a zone with merchandise having a different zone status is to be transferred from the zone to Customs territory, the grantee shall submit to the district director, in triplicate, a description of the proposed transaction signed by him which shall include:

(1) The proposed date of transfer;

(2) The identification of the carrier;

(3) The destination of the shipment;

(4) Identification of the merchandise by zone storage location, lot number, marks and numbers of packages, description, quantity, and zone status; and

(5) A notation as to any shortage or damage.

If a form of tally prepared by the grantee for its own purposes contains the necessary information, it may be accepted in lieu of the required description.

(b) *Permit of delivery.* If the transfer is approved by the district director, the original of the description shall be so stamped to serve as a permit of delivery. The original and one copy shall be returned to the grantee. No document other than the permit of delivery shall be required to release the merchandise to the grantee and authorize its transfer into Customs territory.

§ 146.45 Transfer of privileged foreign merchandise into Customs territory.

(a) *Merchandise subject to the provisions of this section.* The provisions of this section are applicable to privileged foreign merchandise which has not been mixed, combined, or repacked in a zone.

(b) *Withdrawal for consumption at port where zone is located*—(1) *Application for transfer.* When merchandise subject to the provisions of this section is to be transferred to Customs territory for consumption, a zone withdrawal shall be made on Customs Form 7505 as an application for the transfer.

(2) *Who may make the withdrawal.* The withdrawal shall be made by the person identified on zone Form B as the consignee (see § 146.21(c)(1) or by a transferee designated by an endorsement on Customs Form 7505 and approved by the grantee.

(3) *Bond.* The zone withdrawal shall be supported by a bond on Customs Form 7551, 7553, or other appropriate form. A bond shall not be required when all the merchandise to be transferred to Customs territory has been inspected, examined, and appraised, has been found to comply with all laws and regulations governing its admission into the commerce of the United States, and there have been produced all documents for the production of which a bond is required by law or regulations if not filed at the time of entry.

(4) *Payment of duties and taxes.* The applicant shall pay the liquidated duties and determined taxes, as assessed in the liquidation of the zone Customs entry (§ 146.21(c)), on the quantity of merchandise to be transferred. If the pertinent zone Customs entry has not been liquidated, estimated duties and taxes shall be deposited.

(5) *Release of merchandise.* Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery.

(c) *Withdrawal for transportation to another port for withdrawal for consumption*—(1) *Application for transfer.* When merchandise subject to the provision of this section is to be transferred to Customs territory for transportation to another port for withdrawal for consumption, a zone withdrawal from transportation clearly indicating the status of the merchandise shall be made on Customs Form 7512 as an application for the transfer.

(2) *Who may make the withdrawal for transportation.* The withdrawal shall be made by the person identified on zone Form B as the consignee (see § 146.21(c)(1)) or by transferee designated by an endorsement on Customs Form 7512 and approved by the grantee.

(3) *Certification by district director at zone port.* The district director at the zone port shall issue a certificate, in triplicate, describing the merchandise in its present condition and certifying the amount of duties and taxes applicable to the shipment. The duplicate copy of such certificate shall be given to the withdrawer.

(4) *Release of merchandise for transportation.* Upon acceptance of the withdrawal, the district director shall release the merchandise to the grantee for delivery to the bonded carrier.

(5) *Withdrawal for consumption at port of destination.* A withdrawal for consumption shall be made at the port of destination on Customs Form 7519 by the person identified on zone Form B as the consignee (see § 146.21(c)(1)) or by a transferee designated on the withdrawal and approval by the grantee. The withdrawal for consumption shall be supported by the duplicate copy of the certificate described in paragraph (c)(3) of this section and also by a bond on Customs Form 7551, 7553, or other appropriate form, when required, pursuant to paragraph (b)(3).

(6) *Payment of duties and taxes.* The applicant shall pay the liquidated duties and determined taxes, as assessed in the liquidation of the zone Customs entry (§ 146.21(c)), on the quantity of merchandise being withdrawn. If the zone Customs entry has not been liquidated, estimated duties and taxes shall be deposited.

(d) *Withdrawal for transfer into Customs territory for exportation.* When merchandise subject to the provisions of this section is to be transferred to Customs territory for exportation, a withdrawal for exportation, or for transportation and exportation, shall be made on Customs Form 7512 by the person identified on zone Form B as the consignee (see § 146.21(c)(1)) or by a transferee designated by an endorsement on Customs Form 7512 and approved by the grantee. Upon acceptance of the withdrawal the district director shall note the statue of the merchandise on the document, and release the merchandise to the grantee for delivery to the carrier.

§ 146.46 Transfer of products of manipulation or manufacture of privileged merchandise into Customs territory.

(a) *Merchandise subject to the provisions of this section.* The provisions of this section are applicable to products of manipulation or manufacture in a zone composed of or derived from privileged merchandise only, whether all foreign, or partly foreign and partly domestic.

(b) *Withdrawal for consumption at port where zone is located.* When products subject to the provisions of this section are to be transferred to Customs territory for consumption, a zone withdrawal shall be made on Customs Form 7505 as an application for the transfer, and the requirements of this paragraph and of § 146.45(b) shall be applicable.

(1) *Documents required in support of the withdrawal*—(i) *Statement.* A statement in the form of an invoice containing the information required by § 146.32(d)(1) shall be filed with the withdrawal.

(ii) *Certificate of identification.* When necessary to support the withdrawal, application may be made to the district director for a certificate on zone Form F covering identification, as shown by Customs records, of the privileged merchandise used in the manipulation or manufacture.

(2) *Conditions for acceptance of withdrawal.* The district director shall not accept zone withdrawals for products of manipulation or manufacture of privileged foreign merchandise until he has definitely established that the merchandise actually exists in the zone in its final form as described in the withdrawal and that all other documents required to be submitted with the withdrawal have been received.

(c) *Withdrawal for transportation to another port for withdrawal for consumption.* When products subject to the provisions of this section are to be transferred to Customs territory for transportation to another port for withdrawal for consumption, a zone withdrawal for transportation clearly indicating the status of the merchandise shall be made on Customs Form 7512 as an application for the transfer. The provisions of paragraph (b) (1) and (2) of this section and the procedure prescribed in § 146.45(c) (2) through (6) shall be applicable.

(d) *Withdrawal for transfer into Customs territory for exportation.* When products subject to the provisions of this section are to be transferred to Customs territory for exportation, the procedure prescribed in § 146.45(d) shall be applicable.

(e) *Articles produced or manufactured in a zone returned to Customs territory after exportation.* Articles produced or manufactured in a zone and exported without having been transferred to Customs territory other than for exportation or for transportation and exportation shall, on their return to Customs territory, be subject to the duties and taxes applicable to like articles of wholly foreign origin, unless it is conclusively established that they were produced or manufactured exclusively with the use of privileged domestic merchandise, the identity of which was maintained in accordance with the pertinent provisions of these foreign-trade zone regulations, in which case they shall be subject to the pertinent provisions of schedule 8, part 1 of the Tariff Schedules of the United States.

§ 146.47 Transfer of zone-restricted merchandise into Customs territory.

(a) *Types of entry.* Zone-restricted merchandise may be returned to Customs territory only for entry for exportation, for entry for transportation and exportation, for destruction (except destruction of distilled spirits, wines and fermented malt liquors), for transfer from one zone to another, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended, unless the Board has ruled that the return of the merchandise to Customs territory for domestic consumption is in the public interest. If the return of zone-restricted merchandise to Customs territory for domestic consumption has been ruled by the Board to be in the public interest, it may be entered for consumption, for warehousing, or for immediate transportation without appraisement, unless the Board has specified which of these forms of entry shall be made.

(b) *Application for constructive transfer to Customs territory.* When zone-restricted merchandise is to be transferred to Customs territory, the grantee shall file an application with the district director on zone Form C naming the person who will be deemed the consignee of the merchandise with the right to make entry or withdrawal therefor upon its transfer to Customs territory. The application shall include a complete identification of the merchandise as it entered the zone, including lot numbers, marks and numbers of the packages, status of each lot, description, and quantities. If any change in respect of any of these items of identification occurred while the merchandise was in the zone, the current information with respect to each such item shall also be stated. The district director shall not accept a term application on Form C.

(c) *Constructive transfer.* Upon the approval by the district director of an application on zone Form C, the merchandise shall be deemed to have been transferred to Customs territory but without physical removal from the zone. For all Customs purposes the merchandise shall be considered to have been imported into Customs territory at the time of this constructive transfer. The district director shall note on the application the date of constructive transfer and the zone status of the merchandise. The constructively transferred merchandise shall be marked or labeled with the initials "C.T."

(d) *Restoration to zone status.* The merchandise may be restored to zone status after it has been constructively transferred to Customs territory and before the expiration of the time within which entry or withdrawal must be made (see paragraph (e)(2) of this section), if:

(1) A new zone Form D is filed and the same procedure followed as if the merchandise had then first arrived in the zone from or through Customs territory (see § 146.12). The zone grantee shall be deemed the carrier which brought the merchandise into the port; or

(2) The applicant arranges for the redelivery to the district director, prior to the filing of a Customs entry or withdrawal, of the grantee's copy of the zone Form C with a request that it be canceled.

(e) *Customs entry or withdrawal and time limitation.* (1) The original of zone Form C, when approved by the district director and endorsed by him with the date of constructive transfer and the zone status of the merchandise, shall be accepted as the equivalent of a bill of lading or carrier's certificate to identify the person named in such Form C as the consignee of the merchandise and its owner for Customs purposes with the right to make entry or withdrawal.

(2) A Customs entry or withdrawal shall be filed in proper form before 5 p.m. of the second working day after the date of constructive transfer of the merchandise. The time may be extended for such longer period as may be specified in a lay-order issued by the district director upon the filing of a written application on Customs Form 3189 by the grantee, or by the named consignee if approved by the grantee. If a Customs entry or withdrawal in proper form is not filed within the time limit, the merchandise shall be considered as having been returned from constructive Customs territory to the zone.

(3) If the return of zone-restricted merchandise to Customs territory for consumption has been ruled by the Board to be in the public interest, the entry shall be endorsed by the district director to show the authority under which it was made, and that the merchandise is subject to the provisions of schedule 8, part 1 of the Tariff Schedules of the United States. Upon acceptance of an entry or withdrawal for any other zone-restricted merchandise,

the entry shall be endorsed by a Customs officer to show that actual exportation of the merchandise is required by the fourth proviso to section 3 of the Act as amended, and the withdrawal endorsed to require delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317 of the Tariff Act of 1930, as amended. (See § 146.42.)

(f) *Release of merchandise.* When a consumption entry is accepted for zone-restricted merchandise the district director shall release the merchandise to the grantee for delivery to the consignee. When any other entry or withdrawal is accepted for such merchandise, the release of the merchandise by the district director for physical removal to the designated destination in Customs territory or for direct exportation shall be in accordance with the Customs Regulations as to merchandise imported into Customs territory, the zone grantee to be considered as the importing carrier.

§ 146.48 Treatment of merchandise not elsewhere provided for in this subpart.

(a) *Merchandise not elsewhere provided for in this subpart includes.* Merchandise not elsewhere provided for in this subpart includes the following:

(1) Articles composed entirely of, or derived entirely from, nonprivileged merchandise, foreign or domestic.

(2) Articles composed in part of, or derived in part from, nonprivileged merchandise, domestic or foreign, and in part of or from privileged merchandise, domestic or foreign.

(3) Recoverable waste resulting from the manipulation or manufacture in a zone of privileged foreign merchandise.

(b) *Constructive transfer.* When articles subject to the provisions of this section are to be transferred from a zone to Customs territory, the procedure provided for in § 146.47(b) through (f) shall be followed, except that if the entry has not been filed in proper form before the expiration of the time allowed for entry in § 146.47(e)(2), the merchandise shall be deposited in general order storage in Customs territory.

(c) *Entry for consumption or warehousing.* Articles subject to the provisions of this section may be transferred from a zone for entry for consumption or, except in the case of articles composed of or derived in part from privileged foreign merchandise, for entry for warehousing subject to the treatment specified in paragraph (e) of this section.

(d) *Supporting statement and certificate.* There shall be filed with each entry for articles described in paragraph (a)(2) of this section a statement in the form of an invoice containing the information specified in § 146.32(d)(1). When necessary to support the entry, application may be made for a certificate on zone Form F covering identification as shown by the Customs records of any privileged domestic or privileged foreign merchandise in the articles.

(e) *Appraisement and tariff classification.* (1) Merchandise subject to the provisions of this section, upon transfer from a zone and entry for consumption or for warehousing, either immediately or after transportation in bond, shall be subject to appraisement and tariff classification in accordance with its character and condition at the time of its constructive transfer to the customs territory and, except for any different rates applicable to any privileged foreign merchandise therein, to the rate or rates of duty and tax in force at the time entry for consumption or withdrawal from warehouse for consumption is made (see sections 141.68 and 141.69 of this chapter).

(2) The value of the merchandise described in paragraph (e)(1) shall be determined in accordance with sections 402, 402a, and 500, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402, 1500), and the related provisions of law. However, the cost of fabrication or other processing, and the general expenses and profit, related to zone operations shall be excluded when determining the dutiable value of an article produced entirely from nonprivileged merchandise (foreign or domestic), or from a combination of privileged and nonprivileged merchandise (foreign or domestic). All other expenses incurred in the zone incidental to placing the article in condition, packed ready for transfer, and freight, insurance, and similar costs incurred after the article is packed ready for transfer into the customs territory also shall be excluded in determining dutiable value. **[TDs 73-175, 80-87.]**

(f) *Liquidation.* The consumption or warehouse entry covering a product provided for in paragraph (a) of this section shall be liquidated in accordance with Part 159 of this chapter, except that in the case of articles described in paragraph (a)(2) of this section adjustment shall be made for that part of the product which consists of or has been derived from privileged merchandise. **[TD 73-175]**

PART 147—TRADE FAIRS

Sec.

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Authority: R.S. 251, secs. 623, 624, 46 Stat. 759, as amended, secs. 2-7, 73 Stat. 18, 19; 19 U.S.C. 66, 1623, 1624, 1751–1756.

Source: T.D. 70–134, 35 FR 9268, June 13, 1970, unless otherwise noted.

§ 147.0 Scope.

This part governs the entry of merchandise intended for exhibition or for use in constructing, installing, or maintaining foreign exhibits at trade fairs which have been so designated by the Secretary of Commerce. It also contains provisions concerning Customs supervision of the merchandise, and the disposition of the merchandise after the fair has closed. The entry of articles which may be admitted free of duty under other provisions of this chapter may be governed by those provisions rather than the regulations in this part. **[TD 70-134]**

Subpart A—General Provisions

§ 147.1 Definitions.

The following are general definitions for the purposes of Part 147:

(a) *The Act.* "The Act" means the Trade Fair Act of 1959. (Secs. 2-7, 73 Stat. 18, 19; 19 U.S.C. 1751–1756.)

(b) *Fair.* "Fair" means a fair, exhibition, or exposition designated by the Secretary of Commerce pursuant to the Trade Fair Act. (For regulations governing designation as a trade fair, see 15 CFR Part 364.)

(c) *Fair operator.* "Fair operator" means the party named by the Secretary of Commerce as the operator of the fair.

(d) *Port.* "Port" means the port at which the fair is to be held, or if the fair is not to be held within the limits of a port, the port nearest to the location of the fair which is in the same Customs district as the fair.

(e) *Closing date.* "Closing date" means the date designated by the Secretary of Commerce as the date when the fair will close, including any extension granted by the Secretary of Commerce, or, if the fair closes earlier, the date on which the fair actually closes.

(f) *Articles for a fair.* "Articles for a fair" includes, but is not limited to:

(1) Actual exhibit items;

(2) Pamphlets, brochures, and explanatory material in reasonable quantities relating to foreign exhibits at a fair;

(3) Material for use in constructing, installing, or maintaining foreign exhibits at a fair.

§ 147.2 Articles which may be entered for a fair.

(a) *General.* Any article imported or brought into the United States may be entered under bond under the regulations of this part for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at a fair, if no duty or internal revenue tax has been paid, and the article is:

(1) In a foreign-trade zone; or

(2) Covered by a Customs exhibition bond provided for in Schedule 8, Part 5B, Tariff Schedules of the United States; or

(3) In continuous Customs custody, including but not limited to articles:

(i) Imported or brought into the United States for the purpose of direct entry at a particular fair;

(ii) In Customs bonded warehouses;

(iii) Unentered under the Customs laws and held in general order pending entry or exportation;

(iv) On exhibition at another fair designated by the Secretary of Commerce.

(b) *Exception.* Articles which have been entered under Schedule 8, Part 5C, Tariff Schedules of the United States, may not be entered under the regulations of this part.

§ 147.3 Bond required.

The fair operator shall furnish for the approval of the district director a bond in an amount to be determined by the district director. No other bond shall be required at the time of making entry for a fair. The bond shall be in the following form:

Trade Fair Bond

Know All Men by These Presents, That ______________, of ______________, as principal, and ______________, of ______________, and ______________, of ______________, as sureties, are held and firmly bound unto the United States of America in the sum of ______________ dollars ($______), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

Witness our hands and seals this ______ day of ______________, 19—.

Whereas, pursuant to the provisions of the Trade Fair Act of 1959, 73 Stat. 18; 19 U.S.C. 1751-1756, the Secretary of Commerce has approved an application by the principal hereon for the operation of a fair to be known as

____
(Insert exact name of fair)
at ______________________; and
(City and State)

Whereas, pursuant to the foregoing Act, imported articles may be imported or brought into the United States without the payment of duties, taxes, fees, charges, or exactions, for purposes of exhibition at the designated fair, or for use in constructing, installing, or maintaining foreign exhibits at such fair, under such regulations as the Secretary of the Treasury shall prescribe;

Now, therefore, the condition of this obligation is such. That—

(1) If the above-bounden principal shall comply in all respect with the provisions of the foregoing Act and the regulations issued by the Secretary relating to the exhibition or use of any article imported or brought into the United States for the designated fair; and shall receive for exhibition or use at such fair only such articles as may be permitted by law and regulations to be deposited therein; and shall safely keep or use the same therein all in accordance with the purposes authorized by law, and shall not remove, nor suffer to be removed, any article from the fair premises without lawful permit and without the presence of the Customs officer in charge;

(2) And if the above-bounden principal shall pay to the district director of Customs, when demanded by him, all unpaid duties, taxes, fees, charges, or exactions found legally due in connection with all articles entered or brought into the United States for the fair under the provisions of the designated Act and charged against this bond; and if in respect of any of the articles released from Customs custody shall redeliver or cause to be redelivered to the order of the district director of Customs, upon proper demand made at any time, any and all articles found not to comply with the law and regulations governing their admission into the commerce of the United States, and shall, after proper notice, mark, label, clean, fumigate, destroy, export, and do any and all other things in relation to said articles that may be required to secure the protection of the revenue and compliance with the Trade Fair Act referred to in the rectial clause of this obligation and with all applicable Customs and related laws; it being expressly understood and agreed that the liability under this bond shall extend to all cases where any of the articles entered for exhibition or use are lost or stolen, whether or not the said loss or theft shall result from the fault of said principal;

(3) And if the above-bounden principal shall pay on demand to the district director of Customs, the actual and necessary Customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of the imported articles, together with the compensation of the Customs officers and employees on duty at or assigned to the fair premises in connection with the accounting for, custody of, and supervision over, the articles entered pursuant to the designated Act, including overtime compensation of Customs officers and employees assigned to duty at night or on Sunday or a holiday;

(4) And if the above-bounden principal, when an article is entered from the Fair for exportation, shall cause the said article to be actually exported from the United States and not relanded therein, and if proof of exportation from the United States be furnished to the said district director in the form and within the time required by law or regulations, or within any lawful extension of such time; or in lieu of exportation, if the said article shall be destroyed or abandoned within the period fixed by law, or, in default thereof, if the obligors shall pay to the district director the full amount of duties, taxes, fees, charges, and exactions which may be found legally due on the said articles;

(5) And if the said principal shall deliver to the district director of Customs all the documents and evidence as may be required in connection with the entry of the articles at the designated fair, and in the form and within the time required by law or regulations, or any lawful extensions thereof, and shall comply with all other requirements of law and regulations;

Then this obligation shall be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

____
(Name) (Address)

____
(Name) (Address)

______________________________________ [seal]
(Principal)

____
(Name) (Address)

____
(Name) (Address)

______________________________________ [seal]
(Surety)

____
(Name) (Address)

____
(Name) (Address)

______________________________________ [seal]
(Surety)

Certificate as to Corporate Principal

I, ________________, certify that I am the ______________ (*) ______________ of the corporation named as principal in the within bond; that ________________, who signed the said bond on behalf of the principal, was then ______________ of the said corporation; that I know his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

Subpart B—Procedure for Importation

§ 147.11 Entry.

(a) *Made in name of fair operator.* All entries of articles for a fair shall be made at the port in the name of the fair operator which shall be deemed for Customs purposes the sole consignee of the merchandise entered under the Act and responsible to the Government for all duties and charges due the United States on account of such entries.

(b) *Merchandise arriving at port other than port of the fair.* Articles to be entered under this subpart which arrive at ports other than the port of the fair shall be entered for immediate transportation without appraisement to the latter port in the manner prescribed in Part 18 of this chapter.

(c) *Form of entry.* Articles shall be entered upon arrival at the port of the fair on a special form of entry to read substantially as follows:

---

* (May be executed by the secretary, assistant secretary, or other corporate officer.)

______________________________________ [seal]

Entry for Exhibition

Entry No. ———

Entry at the port of ——————————— of articles consigned or transferred to ———————————
(Fair operator) under ——————————— I.T. No. ———— ex S.S. —————— from ——————
—————— on the ——— day of ————19—, for exhibition purposes under the Trade Fair Act of 1959.

Mark	*Number*	*Package and contents*	*Quality*	*Invoice value*

(Fair operator)

By ....

(d) *Supersedes previous entry.* When entry for a fair is made under this part, such entry shall supersede any previous entry.

§ 147.12 Invoices.

Articles intended for a fair under the provisions of the Act and valued at over $500 are subject to the special Customs invoice requirements if of a class for which such invoices are required under the Tariff Act of 1930, as amended, and the regulations in this chapter (see Part 8). The invoice shall be on Customs Form 5515 and shall contain the information prescribed under section 481 of the Tariff Act of 1930. In all other cases the ordinary invoicing requirements apply.

§ 147.13 Transfer to fair building.

(a) *Immediate delivery.* The provisions governing immediate delivery in Part 142 of this chapter are applicable to articles for a fair. **[TD 73-175.]**

(b) *After entry.* Upon the entry being made, a permit may be issued by the district director for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in his discretion, to the public stores for examination and subsequent delivery to the buildings in which they are to be exhibited or used.

§ 147.14 Articles not to be immediately entered and delivered to a fair.

(a) *Placed in bonded warehouses.* If for any reason articles imported for a fair are not to be entered and delivered to a fair upon their arrival, the fair operator should request the district director, in writing, to cause such articles to be placed in a bonded warehouse under a "general order permit" at the risk and expense of the fair operator. If no request is made and the articles remain unentered after 5 days from the date of arrival, they will be placed in general order.

(b) *Entry within 1 year.* At any time within 1 year from the date such articles are imported or brought in, they may be entered under this part for a fair or entered under the general tariff law, or for exportation.

(c) *Abandonment.* If not entered within such period, they will be regarded as abandoned to the Government.

§ 147.15 Tentative appraisement.

All articles entered for a fair shall be tentatively appraised prior to exhibition or use.

Subpart C—Requirements of Other Laws

§ 147.21 Marking under the Tariff Act of 1930.

The marking requirements of the Tariff Act of 1930, as amended, and the regulations thereunder will not apply to articles for a fair, except, when such articles are entered for consumption. When entered for consumption, such articles shall be released from Customs custody only upon a full compliance with these marking requirements.

§ 147.22 Compliance with the internal revenue laws and Federal Alcohol Administration Act.

The packaging, marking, and labeling requirements of the internal-revenue laws, and the Federal Alcohol Administration Act (27 U.S.C. 201 to 212), will not apply to articles entered under this part, but any article failing to comply with such requirements shall be conspicuously marked prior to exhibition "Not labeled or packaged as required by law—not for sale." When any such article is withdrawn for consumption, it shall be released from Customs custody only upon a full compliance with such packaging, marking, and labeling requirements.

§ 147.23 Compliance with Plant Quarantine Act and Federal Food, Drug, and Cosmetic Act.

(a) *Plant Quarantine Act.* The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (7 U.S.C. 151-164a, 167), shall not be permitted except under permits issued by the Plant Quarantine Division of the Agricultural Research Service, Department of Agriculture, and in accordance with the plant quarantine regulations.

(b) *Federal Food, Drug, and Cosmetic Act.* The entry of food products shall conform to the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.), and the regulations issued thereunder.

§ 147.24 Merchandise subject to licensing.

Merchandise, the importation of which is subject to the licensing regulations of any agency of the U.S. Government, may be entered for a fair only upon the presentation of the required license, or a waiver of such license.

Subpart D—Customs Supervision

§ 147.31 Articles to be kept separate.

Articles for exhibit at a fair shall be segregated from domestic articles and from imported articles entered under the provisions of the general Customs laws and released from Customs custody.

§ 147.32 Detail of officers to protect the revenue.

The district director shall detail an officer to act as his representative at the fair and shall station inside the buildings as many additional Custom officers and employees as may be necessary to properly protect the revenue.

§ 147.33 Reimbursement by fair operator.

All actual and necessary charges for labor, services, and other expenses in connection with the entry, examination, appraisement, custody, abandonment, destruction, or release of articles entered under the regulations of this part, together with the necessary charges for salaries of Customs officers and employees in connection with the accounting for, custody of, and supervision over, such articles, shall be reimbursed by the fair operator to the Government, payment to be made on demand to the district director for deposit to the appropriation from which paid.

Subpart E—Disposition of Articles Entered for Fairs

§ 147.41 Removal or disposition pursuant to regulation.

Articles for a fair entered under this part shall not be removed from the fair premises, or otherwise disposed of, except in accordance with this subpart.

§ 147.42 Disposition generally.

(a) *Kinds of disposition.* Any article entered for a fair under this part may be entered for consumption, for warehouse, or under any other provision of the Customs laws, or for another fair, or may be transferred to other Customs custody status or to a foreign-trade zone, or abandoned to the Government, or destroyed under Customs supervision, or exported, at any time before, or within 3 months after, the closing date of the fair.

(b) *Appraisement.* Upon entry under any provision of the Customs laws, or at the expiration of 3 months after the closing date of the fair in the case of articles not previously entered or transferred, articles entered for fairs shall be appraised. **[TD 70-181.]**

(c) *Period for performance of certain acts.* In the case of any article entered under a provision of the Customs laws, or for another fair, or transferred to other Customs custody status, or to a foreign-trade zone, the period prescribed for the performance of any act required by the provision governing the status under which the article is entered, or to which it is transferred, shall be computed from the date of such entry or transfer.

§ 147.43 Entry under the Customs laws.

(a) *Payment of duties and taxes.* Any applicable duties and internal revenue taxes on any article entered under any provision of the Customs laws must be paid on such article in its condition and quantity, and at the rate in effect, at the time of such entry.

(b) *Person to make entry.* Entry of merchandise under the Customs laws from a fair may be made in the name of any person duly authorized in writing by the fair operator to make such entry.

§ 147.44 Entry for another fair.

Articles entered for a fair which are to be entered for another fair under the provisions of this part shall be retained in continuous Customs custody.

§ 147.45 Merchandise from a foreign-trade zone.

Articles entered for a fair from a foreign-trade zone status of "zone restricted merchandise" and afterwards entered for consumption from a fair are subject to the provisions of item 804.00, Tariff Schedules of the United States.

§ 147.46 Voluntary abandonment or destruction.

At any time before or within 3 months after the closing date of the fair any article entered for a fair may be abandoned to the Government or destroyed under Customs supervision, upon compliance with § 158.43 of this chapter. **[TD 72-258.]**

§ 147.47 Mandatory abandonment.

Any article entered for a fair, and not disposed of under the provisions of this subpart prior to the expiration of 3 months after the close of the fair shall be regarded as abandoned to the Government, and subject to sale or destruction. Proceeds of sale shall be disposed of in the manner provided in sections 491, 492, and 493, Tariff Act of 1930, as amended, and the regulations thereunder. (See subpart D of Part 127 of this chapter.) Any duties or internal revenue taxes on such article shall be computed on the basis of its condition and quantity at the time it becomes subject to sale. **[TD 74-114.]**

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Sec.

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Authority: R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759; 19 U.S.C. 66, 1498, 1624. The provisions of this part, except for Subpart C, are also issued under General Headnote 11, Tariff Schedules of the United States; 19 U.S.C. 1202. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

Source: T.D. 73-27, 38 FR 2449, Jan. 26, 1973, unless otherwise noted.

§ 148.0 Scope.

This part contains the regulations governing the allowance of exemptions for residents and nonresidents arriving in the United States, for crewmembers of carriers engaged in international traffic, for military and civilian employees of the United States, for certain evacuees, and for certain personnel of foreign governments and international organizations. Procedures and requirements are also set forth pertaining to registration of articles to be taken abroad, declaration and entry, and examination of baggage, and collection of duties and taxes. [TD 73-27.]

Subpart A—General Provisions

§ 148.1 Registration of effects to be taken abroad.

(a) *Persons who may use procedure.* Any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take effects of foreign origin abroad may register such articles before departure from the United States in order to facilitate their identification on return to the United States. Only articles of foreign origin having serial numbers or other distinctive, permanently affixed unique markings can be registered.

(b) *Procedures for registration.* Applicants for registration of articles of foreign origin shall present the articles to a Customs officer and at that time, complete a Customs Form 4457. After the Customs officer has examined the articles and verified their description, he shall sign the form and return it to the applicant for presentation on return of the articles. Customs Form 4455 may be required in any case in which Customs Form 4457 will not adequately serve the purpose of registration.

(c) *Presentation on return and reuse.* The form shall be presented to the Customs officer when the registered articles are returned to the United States. The form shall be valid for reuse as long as the document is legible to identify the registered articles. [TD 82-102.]

§ 148.2 Residence status of arriving persons.

(a) *General.* Persons arriving from foreign countries shall be divided into two classes for Customs purposes:

(1) Residents of the United States returning from abroad, and

(2) All other persons, hereinafter referred to as nonresidents.

(b) *Status as returning resident.* Citizens of the United States, or persons who have formerly resided in the United States including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States, shall be deemed residents of the United States returning from abroad within the meaning of "residents" as used in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), in the absence of satisfactory evidence that they have established a home elsewhere. For this purpose, the residence of a wife shall be deemed to be that of her husband unless satisfactory evidence is presented that the wife has established a separate residence elsewhere. The residence of a minor child shall be presumed to be that of his parents. [TD 78-394]

(c) *Status as nonresident.* Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad, shall be treated for the purpose of these regulations as a nonresident.

(d) *Optional claim of nonresident status.* Any person arriving in the United States who would otherwise be considered a returning resident, may claim at his option the status of a nonresident if he intends to remain in the United States for only a short period of time before returning abroad. If the status as a nonresident claimed by an arriving person is allowed, the procedures in § 148.8 shall be followed.

§ 148.3 Customs treatment after transiting the Panama Canal.

Passengers' baggage and effects and purchases of officers and crewmembers landed in the United States from vessels which have transited the Panama Canal are subject to Customs examination and treatment in the same manner as arrivals from any other foreign territory. [TD 79-276.]

§ 148.4 Accompanying articles.

(a) *Generally.* Articles shall be considered as accompanying a passenger or brought in by him if the articles arrive on the same vessel, vehicle, or aircraft on the same date as that of his arrival in the United States.

(b) *Baggage shipped as freight.* Articles in baggage shipped as freight on a bill of lading or airway bill shall be considered as accompanying a passenger when the baggage arrives on the conveyance on which he arrives in the United States.

(c) *Precleared articles.* Articles in baggage, or in baggage shipped as freight, shall be considered as accompanying a passenger if examined at an established preclearance station and the baggage is hand-carried, checked or manifested on the conveyance on which he arrives in the United States.

(d) *Automobiles.* An automobile which arrives on the same mode of conveyance on the same date as a passenger arrives in the United States shall be considered as accompanying him.

(e) *Misdirected baggage.* Baggage which arrives on the same mode of conveyance ahead of, or after a passenger, shall be treated as accompanying him if it is fully evident to the examining officer from the circumstances that:

(1) The passenger intended the baggage to arrive with him; and

(2) It was misdirected through no fault of the passenger.

§ 148.5 Regular entry of articles in baggage.

Subject to any applicable exemption from entry requirements, articles imported as baggage but not passed under a baggage declaration or under the procedure provided in § 148.6 for unaccompanied shipments of effects subject to personal exemptions shall be entered in the same manner as a cargo importation of like goods. In making regular entry for articles imported in baggage, the value of articles entitled to free entry under item 810.20 or 813.10, Tariff Schedules of the United States (19 U.S.C. 1202), shall be disregarded in determining whether formal or informal entry is required.

§ 148.6 Entry of unaccompanied shipments of effects subject to personal exemptions.

(a) *Declaration to support free entry.* When effects claimed to be free of duty under items 810.20, 812.10, 812.20, 812.30, or 313.10, Tariff Schedules of the United States (19 U.S.C. 1202), do not accompany the importer on his arrival in the United States or are forwarded in bond, a declaration of the importer on Customs Form 3299 shall be required to support the claim for free entry. However, an oral declaration may be accepted in lieu of a written declaration on Customs Form 3299, for effects of a resident which are free of duty under item 810.20 for tools of trade taken abroad or under item 813.10 for personal and household effects taken abroad. Effects of returning residents entitled to free entry under item 810.20 or item 813.10 (except automobiles and other vehicles of residents returning from countries other than Canada or Mexico) need not be itemized if a written declaration is required.

(b) *Exemption from entry.* If the district director is satisfied that an entry would serve no good purpose, none need be required, but evidence of ownership for Customs purposes, such as a carrier's certificate or properly endorsed bill of lading, shall be required with the declaration. Such exemption from entry may also be applied with respect to household effects or tools of trade entitled to free entry (see § § 148.52 and 148.53 respectively) which are unaccompanied or forwarded in bond.

§ 148.7 Unclaimed baggage.

Articles in passengers' baggage on which duties due are not paid and baggage not claimed within a reasonable time shall be treated as unclaimed and sent to general order.

§ 148.8 Temporary importation by residents arriving for short visits.

A person claiming the status of a nonresident upon arrival for a short visit in the United States before returning abroad may import articles free of duty under items 812.10, 812.20, 812.25, and 812.30, Tariff Schedules of the United States (19 U.S.C. 1202), in accordance with the following procedure:

(a) The person claiming the status shall agree to export all such articles upon his departure from the United States, except articles imported as gifts under item 812.25, and articles consumed during his visit;

(b) When required to do so, the person claiming the status shall list all articles of substantial value which he is importing on Customs Form 4455, in duplicate, noting thereon the expected duration of his visit. He shall present the completed form to the inspecting officer who will initial both copies and return the duplicate to him;

(c) Upon his departure from the United States at the completion of his visit, the person claiming the status of a nonresident shall present to a Customs officer the duplicate copy of Customs Form 4455, initialed by the inspecting officer, and the articles listed thereon shall be subject to inspection; and

(d) If he decides not to return abroad, the person claiming the status shall immediately notify the district director at the port of entry. The district director will advise him of the amount of duties and taxes due by reason of his failure to return abroad.

Subpart B—Declarations

§ 148.11 Declaration required.

All articles brought into the United States by any individual shall be declared to a Customs officer at the port of first arrival in the United States, on a conveyance en route to the United States on which a Customs officer is assigned for that purpose, or at a preclearance office in a foreign country where a United States Customs officer is stationed for that purpose.

§ 148.12 Oral declarations.

(a) *Generally.* Returning residents and nonresidents arriving in the United States may make an oral declaration under the conditions set forth in paragraph (b) of this section. However, written declarations may be required generally or in respect to particular types of traffic at any port if necessary to effect prompt and orderly clearance of passengers and their effects, and may be required in particular cases at any port if deemed necessary to protect the revenue. If an oral declaration is permitted, completion of the identifying information on Customs Form 6059-B may be required.

(b) *When permitted.* Oral declarations may be permitted under the following conditions:

(1) *Residents.* A returning resident may make an oral declaration if:

(i) The aggregate fair retail value in the country of acquisition of all accompanying articles acquired abroad by him and of the cost or value of alterations and dutiable repairs made abroad to personal and household effects taken out and brought back by him does not exceed $300, or $600 in the case of direct or indirect arrivals from American Samoa, Guam, and the Virgin Islands of the United States, if not more than $300 shall have been acquired elsewhere than in such insular possessions; **[TD 78-394]**

(ii) None of his accompanying articles are forwarded in bond; and

(iii) None of his accompanying articles are imported for the account of any other person or for sale.

(2) *Nonresidents.* An arriving nonresident may make an oral declaration if all the articles he has to declare are:

(i) Entitled to free entry under his personal exemptions (see Subpart E of this part); or

(ii) Eligible for the administrative exemption for articles not exceeding $25 in aggregate value, provided in section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)) (see § 148.51). **[TD 78-394]**

(c) *Memorandum baggage declaration for dutiable articles.* When an arriving person is carrying a few dutiable or taxable articles which can be readily identified and segregated from articles entitled to free entry under his personal exemptions, the Customs officer may prepare a memorandum baggage declaration using a cash receipt, Customs Form 5104, for dutiable or taxable articles if he determines that a written declaration by the arriving person is not essential.

§ 148.13 Written declarations.

(a) *When required.* Unless an oral declaration is accepted under § 148.12, the declaration required of a person arriving in the United States shall be in writing on Customs Form 6059-B.

(b) *Completion and presentation of written declarations.* The person arriving in the United States shall complete the information required by Customs Form 6059-B and shall list all articles acquired abroad which are in his possession at the time of arrival. Individual items not exceeding $5 per item in fair retail value in the country of acquisition may be grouped on the written declaration as "Miscellaneous" up to but not exceeding a total value of $50. Articles not requiring itemization as set forth in paragraph (c) of this section shall be declared orally to the Customs officer. The form shall be presented to the Customs officer who will inspect the passenger's baggage.

(c) *Itemization of certain articles not required.* Except as required by § 148.62 or § 148.66 for crewmembers' articles, the following need not be itemized in written declarations:

(1) Effects of a returning resident entitled to free entry under item 810.20, Tariff Schedules of the United States (19 U.S.C. 1202), for tools of trade taken abroad, or under item 813.10, for personal or household effects taken abroad. However, automobiles and other vehicles of residents returning from countries other than Canada or Mexico and the cost of all repairs or alterations to articles taken abroad must be itemized.

(2) Effects of a nonresident entitled to free entry under item 812.10, Tariff Schedules of the United States (19 U.S.C. 1202), for wearing apparel and other similar personal effects; item 812.20, for tobacco products and alcoholic beverages; item 812.25, for articles to be disposed of as bona fide gifts; or item 812.40, for articles accompanying a person in transit to a place outside U.S. Customs territory.

(3) Books, libraries, furniture, and similar household effects entitled to free entry under item 810.10, Tariff Schedules of the United States (19 U.S.C. 1202).

(d) *Value.* Opposite the description of each article required to be declared specifically in a written declaration the passenger shall state either:

(1) The price at retail actually paid for the article in the currency of purchase, or its equivalent in U.S. currency; or

(2) The fair retail value in the country of acquisition if the article was not acquired at retail or by purchase, in the currency of the country in which the article was acquired or in U.S. currency.

(e) *Acknowledgment before Customs officer.* Each written declaration shall be acknowledged by the declarant before the Customs officer who examines the baggage covered by the declaration.

§ 148.14 Family declarations.

A family group residing in one household, traveling together, and having the same residence status may be permitted to declare orally articles acquired abroad for the personal or household use of any member of the family if the value of such articles does not exceed the total amount of the exemption to which the family group is entitled. (See § 148.34.) Where a written declaration is required, one member of a family group may declare for all. Servants accompanying a family group shall not be included in the family declaration.

§ 148.15 Inclusion of articles not for personal or household use.

Articles not personal in character, or which are intended for sale or are brought in on commission for another person, may be included in the baggage declaration of a resident or nonresident under the conditions specified in § 148.23(c). If not so included, regular entry shall be required.

§ 148.16 Amendment of declaration.

(a) *Before examination.* A passenger shall be permitted to add an article to his declaration if, before examination of his baggage has begun, the fact that the article has not been declared is brought to the attention of the examining officer by the passenger.

(b) *After examination is begun.* A passenger shall be permitted to add an article to his declaration after examination of his baggage has begun if, before any undeclared article is found, the passenger advises the examining officer that he has such an article and the officer is satisfied that there was no fraudulent intent. Under no circumstances shall a passenger be permitted to add any undeclared article to his declaration after such article has been discovered by the examining officer.

§ 148.17 Declaration on arrival incidental to further foreign travel.

(a) *Declaration on incidental arrival.* A resident who enters the United States merely as an incident of foreign travel and who will continue his foreign travel before finally returning to the United States from a continuous trip shall declare, but need not clear through Customs, any articles he has acquired or had repaired or altered while abroad. The incidental character of the arrival shall be made known to the Customs officer.

(b) *Treatment of articles on incidental arrival.* In order that a resident may claim the $300 or $600 exemption upon his final arrival in the United States from a continuous trip, articles accompanying him at the time of an incidental arrival may be exported directly from Customs custody or after transportation in bond, or the articles may be left in Customs custody if the resident upon his final return is to arrive at the Customs facility where the articles are deposited. **[TD 78-394]**

(c) *Failure to advise of incidental character of arrival.* If the traveler fails to advise the Customs officer of the incidental character of his arrival, or for other reason declares any articles for allowance of the $300 or $600 exemption, such declaration shall mark the beginning of the respective period or periods during which a further exemption cannot be granted.

§ 148.18 Failure to declare.

(a) *Penalty incurred.* Except as provided in paragraphs (b) and (c) of this section for the remission of the personal penalty and mitigation of the forfeiture in special circumstances, any article in the baggage of a passenger arriving from a foreign country which is not declared as required by this subpart shall be seized if it is available for seizure at the time the violation is detected, and the personal penalty prescribed by section 497, Tariff Act of 1930 (19 U.S.C. 1497) shall be demanded from the passenger. If the article is not seized, a claim for the personal penalty shall be made against the person who imported the article without declaration. No duty shall be collected, since undeclared articles are treated as smuggled.

(b) *Remission of penalty.* When an article not declared as required by this subpart is found in the baggage of a person arriving in the United States, the personal penalty incurred is hereby remitted pursuant to the authority of section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provided it is satisfactorily established that:

(1) The article would have been free of duty and internal revenue tax if it had been properly declared;

(2) Its importation is not prohibited or restricted; and

(3) The failure to declare was not due to willful negligence or fraudulent intent.

(c) *Mitigation or remission of forfeiture incurred.* In any case in which the personal penalty for failure to declare is remitted in accordance with paragraph (b) of this section, the forfeiture incurred will be mitigated or remitted as follows:

(1) When the article would have been free of duty only because of the provisions of items 810.20, 812.10, 812.25, 812.30, 812.40, 813.10, 813.30, or 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)), the forfeiture incurred is hereby mitigated pursuant to the authority of section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), to a sum equal to the duty and any internal revenue tax which would have accrued upon the article had it been imported for commercial purposes; or

(2) When the article would otherwise have been free of duty and internal revenue tax, the forfeiture incurred is hereby remitted pursuant to the same authority.

§ 148.19 False or fraudulent statement.

A passenger who makes any false or fraudulent statement or engages in other conduct within the purview of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), whereby a Customs officer is or may be induced to pass an article free of duty or at less than the proper amount of duty, shall be deemed to have violated the said section 592. In any such case the article involved shall be seized only if one or more of the conditions set forth in § 162.41(a)(3) of this chapter are present, if it is available for seizure at the time the violation is detected, and if such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the Customs violation. If seizure is not made, the domestic value of the article, determined in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606), shall be demanded from the passenger. Whether the article is seized or the domestic value thereof is demanded in lieu of seizure, the duty estimated to be due thereon shall be demanded of the passenger as soon as possible after the discovery of the violation. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited. **[TD 77-136.]**

Subpart C—Examination of Baggage and Collection of Duties and Taxes

§ 148.21 Opening of baggage, compartments, or vehicles.

(a) *Customs officers not to open.* Customs officers shall not open baggage or other containers, nor unlock vehicles or compartments thereof for the purpose of examination, but shall detain them until the owner, his agent, or the person in charge of any baggage, container or vehicle opens or refuses to open them.

(b) *Refusal to open*—(1) *General.* If an owner, his agent, or the person in charge of any baggage, other container, or vehicle with a locked compartment refuses to open it, the baggage, container, or vehicle shall be treated as unclaimed.

(2) *On arrival from Canada or Mexico.* If the owner, his agent, or the person in charge of any baggage, container, or vehicle arriving from Canada or Mexico refuses to open it, it shall be opened in accordance with section 462, Tariff Act of 1930 (19 U.S.C. 1462), unless a request is received from him to make other proper disposition. If any article subject to duty, or any prohibited article is found upon opening by a Customs officer, the whole contents and the container or vehicle shall be subject to forfeiture. (Secs. 461, 462, 46 Stat. 717, 718; 19 U.S.C. 1461, 1462)

§ 148.22 Examination of air travelers' baggage in foreign territory.

(a) *Examination and surrender of declaration.* The baggage of persons traveling by air may be examined and passed in accordance with § 148.23 at places in foreign territory where U.S. Customs officers have been established for that purpose (see § 101.5 of this chapter). When baggage is examined in foreign territory, the baggage declaration shall be surrendered to the Customs officer at the airport of departure for the United States prior to boarding the flight. **[TD 77-241.]**

(b) *Subsequently acquired articles.* When a person whose baggage has been examined and passed in foreign territory in accordance with paragraph (a) of this section subsequently acquires additional articles prior to return to the United States, the Customs officer to whom the declaration was surrendered may permit the amendment of that declaration to include the additional articles.

§ 148.23 Examination and clearance of baggage.

(a) *Articles free of duty.* The inspector, including inspectors on trains or ferries, who examines the baggage of any person arriving in the United States may examine and pass, without limitation as to value, the following articles in such baggage or otherwise accompanying such person:

(1) All articles which are for the personal or household use of the arriving person and are free of duty under schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), including automobiles and other articles under § 148.32.

(2) Works of art classifiable under item 765.03, Tariff Schedules of the United States (19 U.S.C. 1202).

(3) Works of art classifiable under item 765.10, 765.15, 765.20, or 765.25, Tariff Schedules of the United States (19 U.S.C. 1202), upon compliance with § 10.48 of this chapter.

(4) Works of art produced by American artists temporarily residing abroad provided for in item 765.30, Tariff Schedules of the United States (19 U.S.C. 1202), upon compliance with § 10.50 of this chapter.

(b) *Articles subject to duty.* The inspector who examines the baggage of any person arriving in the United States may examine, determine the dutiable value of, collect duty on, and pass articles accompanying the arriving person which are for his personal or household use but are subject to duty, including articles imported to be disposed of by him as bona fide gifts.

(c) *Articles not for personal use*—(1) *Valued at not more than $250.* The inspector may also examine, determine the dutiable value of, collect duty on, and pass articles accompanying any person arriving in the United States properly listed on the baggage declaration which are not for the personal or household use of the declarant or which are intended for sale or are brought in on commission for another, provided the aggregate value of such articles is not more than $250.

(2) *Valued over $250 but not over $500.* Articles in the baggage of or otherwise accompanying any person arriving in the United States which have an aggregate value over $250 but not over $500 and are not intended for his personal or household use, or are intended for sale or are brought in on commission for another, may be examined and entered and cleared on a baggage declaration at the place of their arrival with a passenger if:

(i) The articles are accompanied by a proper invoice if one is required (see section 8.15 of this chapter); and

(ii) It is practicable to appraise the articles at the place of arrival.

(d) *Examination of tea for personal use imported in baggage.* Tea for personal use in one or more packages weighing not more than 5 pounds each, when imported in a passenger's baggage, may be delivered without examination for purity under 21 U.S.C. 41-50 and without payment of the examination fee prescribed in 21 U.S.C. 46a.

§ 148.24 Determination of dutiable value.

(a) *Principles applied.* In determining the dutiable value of articles examined under § 148.23, the Customs inspector shall apply the principles of section 402 or section 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402), and shall not regard the declared value or price as conclusive.

(b) *Adjustment of value declared.* An adjustment shall be made by the Customs inspector whenever the purchase price or value declared differs from the fair retail value, whether by reason of depreciation due to wear or use, circumstances of purchase, or acquisition, or for any other reason. He shall give due consideration to the condition of the articles at the time of importation, but he shall not make any allowance for wear and use in excess of 25 per centum of the declared price or value of a worn or used article. A passenger who desires to claim a larger allowance may arrange for formal entry and appraisement of his goods.

§ 148.25 Reexamination and protest.

(a) *Reexamination.* Whenever the Customs officer deems it advisable any or all of a passenger's baggage may be sent to the public stores for examination or reexamination. Passengers dissatisfied with the assessment of duty on their baggage may demand a reexamination, provided the articles have not been removed from Customs custody. In either case, a receipt for the baggage to be examined or reexamined shall be given on Customs Form 6051.

(b) *Protest.* If the passenger remains dissatisfied with the assessment of duty after reexamination, he shall pay the duty assessed and may protest the decision of the district director in accordance with Part 174 of this chapter.

§ 148.26 Collection of internal revenue taxes.

(a) *Cigars and cigarettes.* The internal revenue tax on taxable cigars and cigarettes in a passenger's baggage shall be paid to Customs, using the Customs entry form as a return. Any such return shall show the kind, the quantity, and the tax by class on cigars and cigarettes separately from the statement of duty. Unless for the personal consumption of the importer or disposition as his bona fide gift, cigars and cigarettes are subject to the packaging and marking requirements in the regulations of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Alcoholic beverages.* The internal revenue tax shall be collected on all wines and liquors in excess of the quantity entitled to exemption as specified in this part. Alcoholic beverages found in passenger's baggage shall be released without the placing of strip stamps on the bottles when it appears from the baggage declaration or otherwise that the liquors are for personal use and not for sale or other commercial purposes.

§ 148.27 Receipt for payment.

When duties and internal revenue taxes on articles in a passenger's baggage are collected, a receipt on Customs Form 5104 shall be issued to the passenger if such duties and taxes are paid in cash. If such duties and taxes are paid by personal check, the check shall be the passenger's receipt unless a receipt is requested.

Subpart D—Exemptions for Returning Residents

§ 148.31 Effects taken abroad.

(a) *Exemption.* Each returning resident including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States is entitled to bring in free of duty and internal revenue tax under item 813.10 and schedule 8, part 2, headnote 1, Tariff Schedules of the United States, (19 U.S.C. 1202), all personal and household effects taken abroad. To ensure allowance of the exemption, articles of foreign origin should be registered in accordance with § 148.1. Automobiles and other vehicles, aircraft, boats, teams and saddle horses, together with their accessories, may be brought in free of duty if taken abroad for noncommercial use (see § 148.32). **[TD 78-394]**

(b) *Repair or alteration while abroad.* If any such personal or household effect taken abroad has been advanced in value or improved in condition while abroad by repairs (including cleaning) not merely incidental to wear or use while abroad, or by alterations (including additions) which did not change the identity of the article, the cost or value of such repairs or alterations is subject to duty unless all or part of such cost or value is covered by an allowance of the $300 or $600 exemption for articles acquired abroad (see § 148.33). An effect taken abroad and there changed into a different article is dutiable at its full value when returned to the United States, unless covered in whole or in part by some provision for free entry. **[TD 78-394]**

§ 148.32 Vehicles, aircraft, boats, teams and saddle horses taken abroad.

(a) *Admission free of duty.* Automobiles and other vehicles, aircraft, boats, teams and saddle horses, together with their accessories, taken abroad for noncommercial use and returned by a returning resident shall be admitted free of duty upon being satisfactorily identified.

(b) *Identification of articles taken abroad.* Upon the request of the owner or his agent, the district director shall cause any article described in paragraph (a) of this section to be examined before it is taken abroad, and shall issue a certificate of registration therefor on Customs Form 4455. On the return of the article, the certificate may be accepted as satisfactory identification of the described article for the purpose of admitting the article free of duty. In lieu of Customs Form 4455, the following may be accepted as satisfactory identification of such articles taken abroad:

(1) For an automobile, the State registration card;

(2) For an aircraft, the certificate of registration issued by the Federal Aviation Administration; and

(3) For a pleasure boat, the yacht license or motorboat identification certificate.

(c) *Repairs, alterations, and accessories.* Repairs made abroad to articles described in paragraph (a) of this section, if incidental to use abroad, are not subject to duty. Repairs not incidental to use abroad, and alterations and additions made abroad, shall be assessed with duty upon their value at the rate at which the article itself would be dutiable if imported. Accessories for articles described in paragraph (a) of this section which are acquired abroad are dutiable as if separately imported. Any accessories, repairs, alterations, or additions, which accompany the returning resident at the time of his return to the United States shall be included in his baggage declaration.

(d) *Entry.* Entry on a baggage declaration or regular entry (see § 148.5) shall be required if:

(1) The owner or his agent is unable to produce a proper registration card or certificate to cover the article;

(2) A claim for free entry of repairs, alterations, additions, or accessories is to be made under the $300 or $600 returning resident's exemption for articles acquired abroad; or **[TD 78–394]**

(3) Duty is to be collected. (77A Stat. 411; 19 U.S.C. 1202, item 813.10, Tariff Schedules of the United States)

§ 148.33 Articles acquired abroad.

(a) *Exemption.* Each returning resident is entitled to bring in free of duty and internal revenue tax under items 813.30 and 813.31 and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), articles for his personal or household use which were purchased or otherwise acquired abroad merely as an incident of the foreign journey from which he is returning and which accompany him on his arrival, subject to the limitations and conditions set forth in this section and §§ 148.34–148.38. The aggregate fair retail value in the country of acquisition of such articles for personal and household use shall not exceed $300, or $600 in the case of a resident arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States, of which not more than $300 shall have been acquired elsewhere than in such insular possession. **[TD 78–394]**

(b) *Application to articles of highest rate of duty.* The $300 or $600 exemption shall be applied to the aggregate fair retail value in the country of acquisition of the articles acquired abroad which are subject to the highest rates of duty. If an internal revenue tax is applicable, it shall be combined with the duty in determining which rates are highest. **[TD 78–394]**

(c) *Gifts.* An article acquired abroad by a returning resident and imported by him to be disposed of after importation as his bona fide gift is considered to be for the personal use of the returning resident and may be included in the exemption.

(d) *Tobacco products and alcoholic beverages.* Cigars, cigarettes, manufactured tobacco, and alcoholic beverages, may be included in the exemption to which a returning resident is entitled, with the following limits: **[TD 78–394.]**

(1) No more than 200 cigarettes and 100 cigars may be included;

(2) No alcoholic beverages shall be included in the case of an individual who has not attained the age of 21; and

o (3) No more than 1 liter of alcoholic beverages may be included unless the individual is arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States. An individual returning directly or indirectly from these insular possessions shall be entitled to include in the exemption no more than 1 wine gallon of alcoholic beverages, not more than 1 quart of which shall have been acquired elsewhere than in such insular possessions.

(e) *Exemption not applicable.* The exemption does not apply to articles intended for sale or acquired on commission, i.e., for the account of another person, with or without compensation for the service rendered. Articles acquired on one journey and left in a foreign country cannot be allowed the exemption accruing upon the return of the resident from a subsequent journey.

(f) *Remainder not applicable to subsequent journey.* A returning resident who has received a total exemption of less than $300 under the $300 exemption, or less than $600 under the $600 exemption in connection with his return from one journey is not entitled to apply the remainder of either amount to articles acquired abroad on a subsequent journey. **[TD 78–394]**

§ 148.34 Family grouping of exemptions for articles acquired abroad.

(a) *Grouping of exemptions.* Each member of a family is entitled to the $300 or $600 exemption for articles acquired abroad, subject to the conditions prescribed in this subpart. When members of a family residing in one household travel together on their return to the United States, the $300 or $600 exemption to which the several members of the family may be entitled may be grouped and allowed without regard to which member of the family is the owner of the articles. However, a group exemption shall not include an exemption for a family member not entitled to it in his own right, nor shall a group exemption be applied to any property of such a member. The exemption of a family member who has not attained the age of 21 shall not be applied under the group exemption to alcoholic beverages. No exemptions allowable to a resident servant accompanying the family shall be included in the family grouping. **[TD 78–394]**

(b) *Members of a family residing in one household.* The term "members of a family in one household" shall include all persons, regardless of age, who:

(1) Are related by blood, marriage, or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live together in one household after their arrival in the United States.

§ 148.35 Length of stay for exemption of articles acquired abroad.

(a) *Required for allowance of $300 exemption.* The $300 exemption for articles acquired abroad shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours, except in the case of a resident arriving directly in the United States from Mexico. The exemption may be allowed on articles acquired abroad by a returning resident arriving directly from Mexico without regard to the length of time the person has remained outside the territorial limits of the United States. **[TD 78-394]**

(b) *Required for allowance of $600 exemption on return from Virgin Islands.* The $600 exemption applicable in the case of the arrival of a returning resident directly or indirectly from the Virgin Islands of the United States may be allowed without regard to the length of time such person has remained outside the territorial limits of the United States.

(c) *Computation of time.* The 48-hour period a returning resident must have completed abroad to be entitled to an exemption shall be computed exactly. For example, a resident leaving United States territory at 1:30 p.m. on June 1 would complete the 48-hour period at 1:30 p.m. on June 3.

§ 148.36 Frequency of allowance of exemption for articles acquired abroad.

(a) *30-day period.* The $300 or $600 exemption for articles acquired abroad shall not be granted to a returning resident who has taken advantage of such exemption within the 30-day period immediately preceding his return to the United States. The date of the returning resident's latest prior arrival on which he declared articles acquired abroad for allowance of the $300 or $600 exemption shall be deemed the date he took advantage of the applicable exemption. **[TD 78-394]**

(b) *Computation of time.* The 30-day period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 30 days. For example, in the case of an arrival on May 28, the resident would not be entitled to the $300 or $600 exemption if he had taken advantage of such exemption on or after the preceding April 28.

§ 148.37 Replacement of unsatisfactory articles acquired abroad.

(a) *Free entry of replacement articles.* An article furnished by a foreign supplier to replace a like article of comparable value previously exempted from duty under the $300 or $600 exemptions for articles acquired abroad shall be allowed free entry if the original article is found by the importer to be unsatisfactory and the procedures provided by paragraph (b) of this section are followed. In any case in which the importer has failed to follow these procedures, the district director may allow free entry of the replacement article if he is satisfied that the unsatisfactory article was timely exported and that the failure to comply with the procedures of paragraph (b) of this section was due to inadvertence or lack of experience in Customs matters and was without willful intent to avoid Customs supervision. **[TD 78-394]**

(b) *Procedure for replacement.* Any article previously exempted from duty under the $300 or $600 exemptions found by the importer to be unsatisfactory shall be returned to Customs custody and exported under Customs supervision at the expense of the importer within 60 days after its importation. A certificate of registration on Customs Form 4455 shall be issued to the importer with instructions as to its use when the unsatisfactory article is exported for replacement under the provisions of item 813.40, Tariff Schedules of the United States. **[TD 78-394]**

(c) *Articles found damaged upon declaration.* The requirement that the original article be exported under Customs supervision does not apply when a duplicate article is furnished by a foreign supplier as a replacement for an article declared for entry under the $300 or $600 exemption and found by the Customs inspector or other examining officer to be so damaged as to constitute a nonimportation (§ 158.11 of this chapter). In such a case, Customs Form 4455 shall be issued to the importer at the time the determination of nonimportation is made and the duplicate replacement shall be considered to have been acquired abroad for the purposes of the $300 or $600 exemption provision, provided no charge is made to the importer for the duplicate replacement. **[TD 78-394]**

§ 148.38 Sale of articles acquired abroad.

An article brought in under the $300 or $600 exemption for articles acquired abroad for personal or household use and subsequently sold is not dutiable or subject to forfeiture by reason of the sale if the returning resident actually acquired and imported the article for his bona fide personal or household use and not for sale. **[TD 78-394]**

§ 148.39 Rented automobiles.

(a) *Importation for temporary period.* An automobile rented by a resident of the United States while abroad may be brought into the United States by or on behalf of such resident for a temporary period not to exceed 30 days under item 813.25, Tariff Schedules of the United States (19 U.S.C. 1202), without payment of duty. The automobile shall be used for the transportation of the resident and that of his family and guests, and for such incidental carriage of articles as may be appropriate to his personal use of the automobile. No entry or security for exportation shall be required.

(b) *Unauthorized use or failure to export.* If any automobile exempted from duty under item 813.25, Tariff Schedules of the United States (19 U.S.C. 1202), is used otherwise than for the purpose expressed or is not returned abroad within 30 days, without prior payment to a district director of the duty which would have been payable at the time of entry if entered without benefit of the exemption, the automobile or its value (to be recovered from the importer) shall be subject to forefeiture.

Subpart E—Exemptions for Nonresidents

§ 148.41 Articles carried through the United States.

An arriving nonresident who is in transit to a place outside U.S. Customs territory may take with him through U.S. Customs territory for carriage to such place articles not exceeding $200 in aggregate value including not more than 4 liters of alcoholic beverages without the payment of duty or internal revenue taxes as provided in item 812.40, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202). **[TD 78-394]**

§ 148.42 Personal effects.

(a) *Exemption.* A nonresident arriving in the United States, regardless of age, is entitled under item 812.10, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), to entry free of duty and internal revenue tax for his wearing apparel, articles of personal adornment, toilet articles, and similar personal effects. "Similar personal effects" include all articles intended and appropriate for the personal use of the nonresident while traveling, such as hunting and fishing equipment, wheelchairs for invalids or crippled persons, pet and hunting dogs, and the like.

(b) *Application of exemption.* The exemption applies only to articles which were actually owned by the nonresident and in his possession abroad at the time of, or prior to, his departure for the United States. The articles must be appropriate for the personal use of the nonresident, and intended only for such use and not as a gift for another person nor for sale.

§ 148.43 Tobacco products and alcoholic beverages.

(a) *For personal use.* Fifty cigars, or 200 cigarettes, or 2 kilograms of smoking tobacco, and not exceeding 1 liter of alcoholic beverages may be passed free of duty and internal revenue tax under item 812.20, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), when brought in by an adult nonresident for his personal use, and not for commercial use or to be given to another person. This exemption for tobacco products may be applied proportionately. (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, SCC. 202 Pub. L. 95-410)) **[TDs 78-394, 80-179.]**

(b) *For gifts.* A nonresident who is allowed the $100 gift exemption (see § 148.44) may include not more than 100 cigars under such exemption from duty and internal revenue tax, provided the cigars accompany him and are to be disposed of only as bona fide gifts. **[TD 78-394]**

§ 148.44 Gifts.

(a) *Exemption.* An arriving nonresident who intends to remain in the United States for not less than 72 hours is entitled to claim as free of duty and internal revenue tax under item 812.25, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), articles not over $100 in aggregate value not including alcoholic beverages and cigarettes, but including not more than 100 cigars which accompany him and are to be disposed of by him as bona fide gifts. See § 148.43(b) for limitations on cigars under this exemption. **[TD 78-394]**

(b) *Frequency of allowance.* The exemption for gifts may be allowed only if the nonresident has not claimed the exemption within the immediately preceding 6 months.

§ 148.45 Vehicles and other conveyances.

Nonresidents are entitled to entry free of duty and internal revenue tax under item 812.30, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), for automobiles, trailers, aircraft, motorcycles, bicycles, baby carriages, boats, horse-drawn conveyances, horses, and similar means of transportation and the usual equipment accompanying them, if such articles are imported in connection with the arrival of the nonresident to be used in the United States only for the transportation of the nonresident, his family and guests, and such incidental carriage of articles as may be appropriate to his personal use of the conveyance.

§ 148.46 Sale of exempted articles.

(a) *Sale resulting in forfeiture.* The following articles or their value (to be recovered from the importer) upon their sale, shall be subject to forfeiture in accordance with the provisions of schedule 8, part 2A, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), unless the procedure set forth in paragraph (b) of this section is followed:

(1) Any jewelry or similar articles of personal adornment having an aggregate value of $300 or more which have been allowed an exemption under § 148.42, if sold within 3 years of the date of importation.

(2) Any conveyance or its equipment allowed an exemption under § 148.45, if sold within 1 year after the date of importation.

(b) *Procedure permitting sale.* Articles described in paragraph (a) of this section may be sold if, prior to the time of sale, payment is made to a district director of the duty which would have been payable at the time of entry if the article had been entered without the benefit of the applicable exemption.

(c) *Permissible sales.* A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not a basis for any liability for duty or forfeiture.

Subpart F—Other Exemptions

§ 148.51 Special exemption for personal or household articles.

(a) *Application of exemption.* The exemption from duty and internal revenue tax contemplated by section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)), may be applied to articles for his personal or household use including gifts, but not for any business or commercial use, accompanying:

(1) A nonresident arriving in the United States who is not entitled to an exemption for gifts under item 812.25, Tariff Schedules of the United States (19 U.S.C. 1202) (see § 148.44); or

(2) A returning resident who is not entitled to the $300 or $600 exemption for articles acquired abroad under item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202) (see Subpart D of this part). **[TD 78-394]**

(b) *Limitations.* No article accompanying a person arriving in the United States shall be exempted from duty or internal revenue tax under section 321(a)(2)(B), Tariff Act of 1930, as amended, if any article accompanying such person is subject to duty or tax by reason of the following limitations on the application of this exemption:

(1) *Value of articles.* The exemption shall be allowed only when the aggregate fair retail value of all articles not otherwise entitled to an exemption does not exceed $25. **[TD 78-394]**

(2) *Articles subject to internal revenue tax.* The exemption shall not be applied to articles subject to internal revenue tax other than: (Sec. 7,52 Stat. 1081, item 877.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, Sec. 202 Pub. L. 95-410)) **[TD 80-179.]**

(i) Cigarettes not in excess of 50;

(ii) Cigars not in excess of 10;

(iii) Alcoholic beverages not in excess of 150 milliliters; or

(iv) Alcoholic perfumery not in excess of 150 milliliters; or

(c) *Family grouping.* Family grouping of the exemption shall not be allowed. (Sec. 7, 52 Stat. 1081, as amended; 19 U.S.C. 1321)

§ 148.52 Exemption for household effects used abroad.

(a) *Exemption.* Furniture, carpets, paintings, tableware, books, libraries, and other usual household furnishings and effects actually used abroad for not less than 1 year by resident or nonresidents, and not intended for any other person or for sale may be allowed entry free of duty and tax under item 810.10, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202). Household effects used abroad not less than 1 year by a family of which the importer was a resident member for not less than 1 year during the period of use may be allowed free entry whether or not the importer owned the effects at the time of such use. The year of use need not be continuous, nor need it immediately precede the time of importation.

(b) *Proof of use.* In order to obtain free entry for household effects under this section, the use of the effects abroad for 1 year must be proven to the satisfaction of the district director. The district director, in his discretion, may require evidence of use other than the declaration provided for in paragraph (c) of this section.

(c) *Declaration.* When household effects are claimed to be free of duty a declaration of the owner on Customs Form 3299 shall be required to support the claim for free entry. If it is impracticable to produce the declaration at the time of entry, the importer may give a bond on Customs Form 7551 or 7553 for the production of the owner's declaration within 6 months.

(d) *Arrival of effects more than 10 years after arrival of importer.* As a general rule, household effects arriving more than 10 years after the last arrival of the importer from the country in which the effects were used shall not be admitted free of duty under this exemption unless the district director is satisfied from the importer's explanation that the effects were unavoidably detained beyond the 10-year period. However, in no case shall free entry be allowed under this provision when a period of 25 years or more has elapsed since the last arrival of the importer in the United States from the country in which the effects were used.

§ 148.53 Exemption for tools of trade.

(a) *Exemption.* Professional books, implements, instruments, or tools of trade, occupation or employment, may be allowed entry free of duty and tax under the provisions of schedule 8, part 2, headnote 1, and item 811.10, Tariff Schedules of the United States (19 U.S.C. 1202), for such articles owned and used abroad by any person emigrating to the United States, or item 810.20 for such articles taken abroad by or for the account of any person arriving in the United States. The exemption for emigrants under item 811.10 shall not be applied to:

(1) Theatrical scenery, properties, or apparel;

(2) Articles for use in any manufacturing establishment;

(3) Articles for any other person; or

(4) Articles for sale.

(b) *Declaration.* A declaration of the emigrant or returning individual on Customs Form 3299 shall be required to support the claim of free entry. However, an oral declaration may be accepted from a returning individual in lieu of a written declaration for any such articles claimed to be free of duty under item 810.20, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 148.54 Exemption for effects of citizens dying abroad.

(a) *Exemption.* Articles claimed to be personal and household effects, not stock in trade, the title to which is in the estate of a citizen of the United States who died abroad may be allowed entry free of duty and tax under item 815.00, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Entry.* Such effects shall be entered in accordance with the provisions of §§ 143.11—143.16 of this chapter, or if the value of such effects does not exceed $250, entry may be permitted under the provisions of §§ 143.21 through 143.28 of this chapter. **[TD 78-99]**

(c) *Statement of facts required.* The district director shall require in connection with the entry the written statement of a person having knowledge of the facts or shall otherwise satisfy himself as to the citizenship of the deceased owner of the effects at the time of death.

§ 148.55 Exemption for articles bearing American trademark.

(a) *Application of exemption.* An exemption is provided for trademarked articles accompanying any person arriving in the United States which would be prohibited entry under section 526, Tariff Act of 1930, as amended (19 U.S.C. 1526), or section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), because the trademark has been registered with the U.S. Patent Office and recorded with Customs. The exemption may be applied to those trademarked articles of foreign manufacture bearing a trademark owned by a citizen of, or a corporation or association created or organized within, the United States when inported for the arriving person's personal use in the quantities provided in paragraph (c) of this section. Unregistered and unrecorded trademarked articles are not subject to quantity limitation.

(b) *Limitations.*—(1) *30-day period.* The exemption in paragraph (a) of this section shall not be granted to any person who has taken advantage of the exemption for the same type of article within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he claimed this exemption shall be considered to be the date he last took advantage of the exemption.

(b) *Sale of exempted articles.* If an article which has been exempted is sold within one year of the date of importation, the article or its value (to be recovered from the importer), is subject to forfeiture. A sale subject to judicial order or in the liquidation of an estate is not subject to the provisions of this paragraph.

(c) *Quantities.* Generally, each person arriving in the United States may apply the exemption to one article of the type bearing a protected trademark. The Commissioner shall determine if a quantity of an article in excess of one may be entered and, with the approval of the Secretary of the Treasury, publish in the Federal Register a list of types of articles and the quantities of each entitled to the exemption. If the holder of a protected trademark allows importation of a quantity in excess of one of its particular trademarked article, the total of those trademarked articles authorized by the trademark holder may be entered without penalty. **[TD 79-159.]**

Subpart G—Crewmember Declarations and Exemptions

§ 148.61 Status as crewmembers.

The following persons arriving in the United States shall not be treated as crewmembers: **[TD 76-338.]**

(a) Members of the uniformed services of the United States and persons in the civil service of the United States engaged in the operation of a vessel, vehicle, or aircraft owned by, or under the complete control and management of, the United States or any of its agencies.

(b) Persons engaged in the operation of a private or public aircraft.

(c) Persons not connected with the operation, navigation, ownership, or business of a vessel, vehicle or aircraft engaged in international traffic.

§ 148.62 Declaration and entry of articles by crewmembers.

(a) *Declaration required.* Articles which are to be landed by a crewmember, including any person traveling on board a vessel, vehicle, or aircraft engaged in international traffic who is returning from a trip on which he was employed as a crewmember, shall be declared upon arrival of the vessel, vehicle, or aircraft in the United States. When practicable, the clearance of articles through Customs shall be made and permission to unlade obtained before the articles are taken from the carrier. However, if no danger to the revenue will result, articles may be submitted for examination and clearance to the Customs office on the pier or at the landing place.

(b) *Form of declaration*—(1) *Oral declaration.* A crewmember may be permitted to make an oral declaration and entry if all articles he has to declare, in addition to articles for use in port on temporary leave for which no entry is required in accordance with § 148.63, may be admitted free of duty and tax under section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)) (See § 148.64).

(2) *Written declaration.* A written declaration on Customs Form 5129, Crewmember's Declaration shall be required in any case in which an oral declaration is not permitted. A written declaration may be required in any case if necessary to effect prompt and orderly clearance of crewmembers and their effects or if deemed necessary to protect the revenue. **[TD 78-99.]**

(c) *Transfer without declaration.* Articles belonging to a crewmember may be transferred from one carrier to another in international traffic without declaration, entry, or assessment of duty if the transfer is carried out under the supervision of Customs officers, or by a bonded cartman if necessary.

(d) *Entry at port where articles to be landed.* Articles in the possession of or owned by a crewmember of a character for which entry must be made when they are brought into the United States shall be entered at the port where the articles are to be landed. However, if the crewmember remains on a vessel, vehicle, or aircraft which is to proceed to another port of the United States in a movement in which entry of the vessel, vehicle, or aircraft will not be required, entry of the articles shall be made at the port at which such movement begins.

(e) *Collection of duty and taxes.* Any duties and taxes found due shall be collected as in the case of arriving passengers.

§ 148.63 Articles for use while on temporary leave.

(a) *Exemption.* Articles in the possession of and exclusively for use by any crewmember during the trip or voyage, such as necessary clothing, toiletries, and purely personal effects, may be landed by such crewmember for use on temporary leave without a written declaration or entry, and without payment of duty or internal revenue tax under item 814.00, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), if the district director is satisfied that:

(1) The articles are reasonable and appropriate for the crewmember's accommodation while on temporary leave, and are to be taken out of the United States, except for articles consumed in use;

(2) The articles are intended exclusively for the crewmember's bona fide personal use;

(3) The quantities are reasonable, depending on the circumstances in each particular case; and

(4) In the case of tobacco products and alcoholic beverages, the containers have been opened and the total quantity landed shall not exceed 50 cigars, 300 cigarettes, or 2 kilograms of smoking tobacco, or a proportionate amount of each, and 1 liter of alcoholic beverages. (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, Sec. 202 Pub. L. 95-410)) **[TD 80-179.]**

(b) *Temporary leave.* A crewmember is not considered to be on temporary leave from a vessel, vehicle, or aircraft engaged in international traffic or entitled to the exemption under this section upon disembarkation when he is to remain in the confines of a pier, terminal, airport, or area immediately adjacent thereto, in order to timely embark on the carrier in the course of a continuous journey or on a concurrently scheduled arrival and departure.

§ 148.64 Administrative exemption.

(a) *Application of exemption.* The exemption from duty and internal revenue tax contemplated by section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)), may be applied to articles for the personal and household use, including gifts, of a crewmember arriving in the United States who is not entitled to an exemption under item 812.25 or 813.31, Tariff Schedules of the United States (see §§ 148.66(c) and 148.65). The exemption may be applied when the crewmember is entitled to an exemption under item 814.00, Tariff Schedules of the United States (19 U.S.C. 1202), for articles for use while on temporary leave (§ 148.63).

(b) *Limitations.* No article accompanying a crewmember arriving in the United States shall be exempted from duty or internal revenue tax under section 321(a)(2)(B), Tariff Act of 1930, as amended, if any article accompanying such crewmember is subject to duty or internal revenue tax by reason of the following limitations.

(1) *Value of articles.* The exemption shall be allowed only when the aggregate fair retail value of all articles not otherwise entitled to an exemption does not exceed $10.

(2) *Articles subject to internal revenue tax.* The exemption shall not be applied to any article subject to internal revenue tax in addition to any articles allowed an exemption under item 814.00, Tariff Schedules of the United States (19 U.S.C. 1202), other than: (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, sec. 202 Pub. L. 95–410)) **[TD 80–179.]**

(i) Cigarettes not in excess of 50;

(ii) Cigars not in excess of 10;

(iii) Alcoholic beverages not in excess of 150 mililiters; or

(iv) Alcoholic perfumery not in excess of 150 mililiters.

§ 148.65 Exemptions for resident crewmembers.

(a) *Status as returning resident.* A crewmember arriving in a vessel, vehicle, or aircraft from a foreign port who is a resident of the United States shall be considered a returning resident qualifying for the exemptions allowed under Schedule 8, Part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), and Subpart D of this part if he permanently leaves the carrier without the intention of resuming his employment on the same or any other carrier that is engaged in international traffic.

(b) *Statement of declaration.* A resident crewmember who claims that articles declared by him are entitled to be passed free of duty and tax under the returning resident's exemption, shall include a legible statement on the declaration, Customs Form 5129, of the basis for his claim for entitlement to the resident's exemption. **[TD 78–99, 81–218.]**

§ 148.66 Exemptions for nonresident crewmembers.

(a) *Status as arriving nonresident.* A nonresident crewmember will be treated as an arriving nonresident for purposes of claiming the exemptions allowable under schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), and subpart E of this part when he permanently leaves his employment with a vessel, vehicle, or aircraft at a port in the United States without intention of resuming employment on the same or another carrier in international traffic. However, a nonresident crewmember shall not be treated as an arriving nonresident for this purpose when he departs a carrier for temporary leave but retains his employment with the carrier so that he will be going foreign again in the course of his continuing employment (see § 148.63).

(b) *Articles carried through the United States.* A nonresident crewmember, permanently leaving a carrier in a U.S. port to travel as a passenger on another carrier which will take him to a place outside the United States, who desires to take with him articles not exceeding $200 in aggregate value (including not more than 4 liters of alcoholic beverages) without the payment of duty or internal revenue tax as provided in item 812.40 (see § 148.41), may be accorded free entry of the articles under the following procedure: **[TD 78–394.]**

(1) *Declaration and supporting statement.* The nonresident crewmember shall itemize the articles on his declaration and entry, Customs Form 5129, required by § 148.62(b)(2), and shall state in writing in support of his declaration that: **[TD 78–99.]**

(i) He has been finally discharged from the carrier, with the date of discharge;

(ii) He intends to depart from the same or another U.S. port as a passenger on another carrier for a place outside U.S. Customs territory; and

(iii) The articles will be taken with him on such carrier and will not remain in the United States.

(2) *Allowance by district director.* The district director may require verification of the crewmember's discharge and a statement as to the accuracy of the second and third supporting statements of the crewmember from the person in charge of the carrier, the vessel agent, or the port captain. If the district director is satisfied that the crewmember's statements are correct, the articles may be passed free of duty and internal revenue tax under item 812.40, Tariff Schedules of the United States (19 U.S.C. 1202).

(c) *Articles to be disposed of as gifts.* A nonresident crewmember shall itemize on his baggage declaration and entry, Customs Form 5123 or 5129, required by § 148.62, all articles in his possession for which he seeks entry under item 812.25, Tariff Schedules of the United States (19 U.S.C. 1202), as bona fide gifts. The crewmember must be permanently leaving his employment on the international carrier for a stay in the United States of at least 72 hours before departing for a place outside the United States as a passenger.

§ 148.67 Penalties for failure to declare articles.

(a) *Avoidance of inspection.* When articles may be presented to the Customs office on the pier or at the landing place for inspection and clearance, if the circumstances under which the articles are landed indicate an attempt to avoid inspection, the penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall be assessed.

(b) *Articles landed without declaration.* Any article landed without having been properly declared as provided in § 148.62 shall be considered as having been unladen without a permit and the penalties provided in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), or section 1474 of title 49, United States Code, shall be assessed as applicable.

(c) *Articles omitted from declaration.* If the declaration does not include all the articles landed, the crewmember shall be subject to the penalties prescribed in section 497, Tariff Act of 1930 (19 U.S.C. 1497), with respect to the articles omitted. The penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall not be assessed if any, though not all, of the articles are declared, except as provided in paragraph (a) of this section.

Subpart H—Military and Civilian Employees of the United States, and Evacuees.

§ 148.71 Status of persons in service of United States as returning residents.

A person in the service of the United States and members of his family arriving in the United States are ordinarily considered returning residents for the purpose of schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), except that the following persons are treated as nonresidents:

(a) A wife or husband of any person in the service of the United States emigrating to the United States, and

(b) A child born abroad of any person in the service of the United States who is arriving in the United States for the first time.

§ 148.72 Articles acquired abroad by personnel on Government vessels.

(a) *Declaration of dutiable articles by commanding officer.* Immediately upon the arrival of any vessel operated by the United States or any agency thereof from a foreign port, the commanding officer shall file with the district director information as to dutiable articles acquired abroad in the following form:

United States Navy Customs Declaration

U.S.S. ______________, Port of arrival ______________

To the District Director of Customs:

Herewith is submitted a list of articles acquired in foreign countries by me and the respective officers and members of the crew under my command, which list is correct to the best of my knowledge and belief.

Owner	Rank	Description of articles	Cost or value

Date ______________, 19____

______________ (Name)

______________ (Rank)

______________ Commanding Officer

If there are no articles to be listed, the statement "Nothing to declare" shall be placed on the form. No individual baggage declarations shall be required.

(b) *Examination of baggage.* Articles listed on the declaration filed by the commanding officer shall be segregated until formally passed by Customs. The listed articles shall be examined and passed in the same manner as the baggage on passenger vessels.

§ 148.73 Baggage on military transports.

(a) *Declaration.* Commissioned officers and enlisted personnel of the Armed Forces of the United States engaged in the operation of an Army or Navy transport, enlisted men carried as passengers, and civilian officers and crewmembers shall not be required to execute baggage declarations, but all articles acquired abroad by them must be listed on the manifest of the vessel. All cabin passengers shall be required to execute written baggage declarations.

(b) *Exemptions applicable.* Passengers on transports shall be granted the applicable exemptions from duty provided for in schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202). Members of the Armed Forces of the United States and personnel in the civil service of the United States engaged in the operation of the vessel shall be accorded the same privilege. Civilian officers and crewmembers not in the service of the United States shall be subject to the provisions of Subpart G of this part with respect to exemption from duty.

(c) *Examination of baggage.* Baggage on transports shall be examined at the port where landed in the same manner as baggage on commercial vessels.

§ 148.74 Exemption on termination of assignment to extended duty or on evacuation.

(a) *Exemption.* With the limitation on alcoholic beverages and tobacco products provided in paragraph (c) of this section, entry free of duty and tax under item 817.00, and schedule 8, part 2, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202), may be accorded personal and household effects of:

(1) Any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty at a post or station outside the Customs territory of the United States;

(2) Members of his family who have resided with him at such post or station and are returning upon the termination of his assignment; or

(3) Any person evacuated to the United States under Government orders or instructions.

(b) *Applicability of exemption.* The term "personal effects" as used in item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), is not confined to that class of articles described in item 812.10, Tariff Schedules of the United States, nor is any period of use, such as is prescribed by item 810.10, Tariff Schedules of the United States, applicable to household effects entered under item 817.00. The privilege of free entry under item 817.00, Tariff Schedules of the United States, does not apply to:

(1) Articles imported for sale, or for the account of any person not specified in item 817.00, Tariff Schedules of the United States; or

(2) Articles which have not been in the direct personal possession of the claimant, or a member of his household, while abroad.

(c) *Limitation on alcoholic beverages and tobacco products.* A total of not more than 4 liters of alcoholic beverages and not more than 100 cigars shall be accorded free entry under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), subject to the conditions that: (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, sec. 202 Pub. L. 95-41.)) **[TD 80-179.]**

(1) These articles accompany the person making the claim for free entry upon his arrival in the United States;

(2) Not more than 1 liter of any such alcoholic beverages shall have been distilled or otherwise manufactured and bottled in any place other than the United States or its possessions; (Sec. 7, 52 Stat. 1081, item 817.00, Tariff Schedules of the United States, 92 Stat. 888 (19 U.S.C. 1202, 1321, sec. 202 Pub. L. 95-410)) **[TD 80-179.]**

(3) Such individual has not concurrently claimed exemptions as a returning resident under items 813.30 and 813.31, Tariff Schedules of the United States; and

(4) Such person, if other than one in the service of the United States, shall have attained the age of 21.

(d) *Termination of assignment to extended duty.* The requirement of item 817.00 that the person "returns to the United States upon the termination of assignment to extended duty" shall be considered met upon necessary proof being submitted that any one of the following is applicable:

(1) The person is returning upon the termination of a tour of duty outside the Customs territory of the United States of at least 140 days' duration.

(2) The person is returning after the termination of an assignment under permanent change of station orders to duty at a post or station outside the Customs territory of the United States, regardless of the duration of the duty. A crewmember, including a member of a command, serving on a United States naval vessel when it departs from the United States on an intended deployment of 120 days or more outside the Customs territory of the United States and who continues to serve on the vessel until it returns to the United States may be considered as returning after the termination of an assignment of duty under permanent change of station orders.

(3) The person is returning to the United States upon the termination of a tour of duty at any time after leaving the United States for duty of not less than 140 days outside the Customs territory of the United States.

(4) The person, although not returning to the United States, is ordered by the Government agency involved from duty at a post or station outside the Customs territory of the United States to duty at another post or station outside the Customs territory of the United States necessitating the return to the United States of his personal and household effects.

§ 148.75 Persons ineligible for exemption on termination of assignment.

(a) *Persons returning from temporary assignment.* No person, or member of his family, shall be allowed free entry of personal and household effects under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), where the person returns to the United States pursuant to Government orders or instructions which authorized him initially to proceed to a foreign post or station and return to the United States upon termination of temporary duty, except as it may otherwise be deemed proper in accordance with the provisions of § 148.74(d) or § 148.76.

(b) *Persons returning on leave or before termination of extended duty assignment.* A person returning on leave, other than on reemployment leave at the termination of assignment to extended duty as defined in § 148.74(d), or otherwise returning before the termination of an assignment to extended duty outside the Customs territory of the United States, with or without orders covering the return, is not eligible for an exemption under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

(c) *Person returning on temporary duty assignment.* A person returning to the United States under orders on temporary duty assignment at the termination of which he is returned to his duty station abroad to resume his regular duties is not regarded as returning to the United States at the termination of extended duty outside the Customs ttory of the United States and is not eligible for an exemption under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 148.76 Waiver of requirements or limitations.

In any case in which the limitation on the quantity of alcoholic beverages and tobacco products which may be exempted from duty and tax under § 148.74(c) or the failure of the person to meet the requirements that he be returning upon the termination of assignment to "extended duty," as explained in § 148.74(d), will cause undue hardship to the person through no fault of his own, but rather because of the nature of his assignment or other hardship circumstances, the Commissioner of Customs, upon receipt of a request from the Government agency involved, may waive the limitation or the requirement, as the case may be, if he deems such waiver warranted by the facts.

§ 148.77 Entry of effects on termination of assignment to extended duty, or on evacuation.

(a) *General procedure.* All articles for which free entry is claimed under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended. District directors shall be satisfied in all cases that the articles for which free entry is claimed under item 817.00, Tariff Schedules of the United States, are personal and household effects of the importer entitled to the benefits of item 817.00, particularly in those cases where the quantity of effects imported may appear to be unreasonable for personal or household use. No invoice shall be required for articles accorded free entry under this provision.

(b) *Declaration and entry*—(1) *Person entitled to exemption.* Declaration and entry for articles claimed to be exempt from duty and tax under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202), may be made on Customs Form 6061, or Department of Defense Form (DD) 1252 when entry is made in the name of the person who is entitled to the benefits of the exemption. The date of the person's last departure from the United States shall be indicated on the declaration and entry.

(2) *Designated official.* Customs Form 6061, executed on behalf of the owner of unaccompanied personal and household effects by either a United States Dispatch Agent or a designated responsible military official in his own name, may be accepted by the Customs officer as the declaration and entry if there is a valid reason evident from the owner's travel orders or information at hand why the United States Government agency concerned is unable to present Department of Defense Form (DD) 1252 or Customs Form 6061 executed by the owner. The date of the owner's last departure from the United States need not be indicated on the form. The following statement shall be added across the face or to the back of Customs Form 6061:

> This form is completed on behalf of ———————, (Name of Government employee). Travel orders and information on hand in this office show that the named person has met all requirements of § 148.74 of the Customs Regulations and is entitled to the benefits of item 817.00, Tariff Schedules of the United States. The shipment imported consists of nothing but

personal and household effects of the named person, which effects are not imported for sale or as an accommodation for others.

(c) *Verification of claim for exemption*—(1) *By travel orders.* The declaration and entry shall be verified by the Customs officer by an inspection of the owner's travel orders. If the district director accepts an inspection of the owner's travel orders as evidence that the effects were brought into the United States within the requirements of item 817.00, the owner's travel orders shall be identified on the entry, which shall be handled like a free baggage declaration.

(2) *By other evidence.* The declaration and entry may be verified by other evidence which satisfies the district director that the effects were brought into the United States in connection with:

(i) The person's return to the United States upon the termination of assignment to extended duty, as explained in § 148.74(d);

(ii) The return of members of his family who have resided with him at his post or station upon the termination of his assignment; or

(iii) The evacuation of a person to the United States under Government orders or instructions.

Subpart I—Personnel of Foreign Governments and International Organizations and Special Treatment for Returning Individuals

§ 148.81 General provisions.

(a) *Reciprocal privileges.* The privileges provided for in §§ 148.81 through 148.86 and § 148.90 of this chapter shall be accorded only if reciprocal privileges are granted by the foreign government involved to U.S. personnel of comparable status. **[TD 73-227.]**

(b) *Baggage and effects.* The term "baggage and effects," as used in this subpart includes all articles which were in the possession of a person abroad, and are being imported in connection with his arrival, and which are intended for his bona fide per[illegible]nal or household use. It does not include articles imp[illegible] as an accommodation to others or for sale or other [illegible]rcial use. **[TD 73-227.]**

(c) *Aliens.* The privileges p[illegible]d in this subpart shall be accorded only to alien re[illegible]ntatives, officers, employees, and members of th[illegible]med forces of foreign governments and designated [illegible]lic international organizations. **[TD 73-227.]**

(d) *Internal revenue tax.* Any article exempted from the payment of duty under this subpart shall be exempt also from the payment of any internal revenue tax imposed upon or by reason of importation. **[TD 73-227.]**

§ 148.82 Diplomatic, consular and other privileged personnel.

(a) *Inviolability of the person of diplomatic personnel.* The person of the representatives of foreign governments and members of their families set forth below shall be free from arrest, search, or detention:

(1) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of foreign embassies and legations, and other heads of diplomatic missions or members of the diplomatic staffs of such missions, accredited to the United States or en route between other countries to which accredited and their own countries.

(2) Members of the families forming part of the households of the diplomatic personnel listed in the preceding subparagraph, who are accompanying them or traveling separately to join them incidental to their official travel, excluding those members of families who are U.S. nationals.

(3) Members of the administrative and technical staffs of diplomatic missions accredited to the United States and members of their families forming part of their household, all of whom are not nationals or permanent residents of the United States who are accompanying them or traveling separately to join them incidental to their official travel.

(4) Diplomatic and consular couriers.

(b) *Exemption for baggage and effects and admission without entry.* The baggage and effects of the following representatives of foreign governments shall be admitted free of duty without the filing of an entry, upon the request of the Department of State and appropriate instructions from the United States Customs Service in each instance:

(1) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of embassies and legations, and other members of the diplomatic staffs of such missions accredited to the United States or en route to or from other countries to which assigned, as well as recognized consular officers, and the immediate families, suites, and servants of all the above under item 820.10, Tariff Schedules of the United States (19 U.S.C. 1202).

(2) Members of the administrative and technical staffs of diplomatic missions and members of their families forming part of their households, all of whom are not nationals or permanent residents of the United States under item 820.10, Tariff Schedules of the United States (19 U.S.C. 1202). Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to baggage and effects imported at the time of first installation.

(3) Consular employees who are not nationals or permanent residents of the United States. Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to articles imported at the time of first installation.

(4) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State, and their immediate families under item 820.50, Tariff Schedules of the United States (19 U.S.C. 1202).

(5) Foreign government personnel entitled to privileges under statutes or treaties under item 820.60, Tariff Schedules of the United States (19 U.S.C. 1202).

(6) Diplomatic couriers, limited to accompanying baggage and effects.

(c) *Absence of special request.* In the absence of special request from the Department of State prior to the arrival of representatives of foreign governments enumerated in paragraph (b)(1) of this section, their immediate families as well as accompanying suites and servants, and diplomatic couriers, their baggage and effects may be admitted free of duty without entry upon presentation of their credentials or other proof of their identity.

(d) *Delay in arrival of baggage or effects.* If by accident or unavoidable delay in shipment the baggage or other effects of a person entitled to the privileges of this section shall arrive after him upon satisfactory proof of ownership, such baggage or effects may be passed free of duty without entry.

(e) *Inspection of baggage*—(1) *Exemption for representatives of foreign governments.* The personal baggage of the following representatives of foreign governments and their families is ordinarily exempt from inspection:

(i) Ambassadors, ministers, charges d'affaires, secretaries, counselors, attaches of foreign embassies or legations, and other members of the diplomatic staffs of such missions, who are accredited to the United States or en route between other countries to which accredited and their own countries and members of their families forming part of their household who are not nationals of the United States.

(ii) Consular officers recognized by the United States and members of their families forming part of their household who are not nationals or permanent residents of the United States, provided the baggage accompanies them.

(iii) Diplomatic couriers, provided the baggage accompanies them.

(2) *Conditions permitting inspection.* The personal baggage of representatives of foreign governments listed in subparagraph (1) of this paragraph and members of their families may be inspected if there is serious reason to believe that it contains:

(i) Articles other than those for the personal use of such persons or for the use of their establishments or for official mission use.

(ii) In the case of consular officers and their families, articles intended for consumption in excess of the quantities necessary for direct use by the person concerned.

(iii) Articles which are absolutely or conditionally prohibited importation or exportation under the laws or regulations of the United States, or which are subject to the quarantine laws or regulations of the United States.

(3) *Presence of foreign representative.* When inspection of personal baggage is permitted under subparagraph (2) of this paragraph, the inspection shall take place only in the presence of the affected representative of a foreign government, or his authorized agent.

§ 148.83 Diplomatic and consular bags.

(a) *Diplomatic bags.* The contents of diplomatic bags are restricted to diplomatic documents and articles intended exclusively for official use and packages constituting the diplomatic bag must bear visible marks of their character. Diplomatic bags shall not be opened or detained nor shall they be subject to duty or entry.

(b) *Consular bags.* Consular bags must bear visible external marks of their character and their contents are restricted to official correspondence and documents or articles intended exclusively for official use. Consular bags shall not be subject to duty and ordinarily shall not be opened or detained. However, if Customs officers have serious reason to believe that a consular bag contains other than permissible materials, they may request that the bag be opened in their presence by an authorized representative of the foreign government concerned. If this request is refused, the consular bag shall be returned to its place of origin.

§ 148.84 Special treatment for returning individuals.

(a) Except as otherwise provided by law, an individual returning to the United States from abroad: **[TD 76-325, 78-394]**

(1) Shall not have his or her baggage and effects admitted free of duty without entry.

(2) Shall not be entitled to expedited Customs examination and clearance of his or her baggage and effects unless the district director finds:

(i) That the individual:

(A) Is seriously ill or infirm;

(B) Was summoned by news of affliction or disaster; or

(C) Is accompanying the body of a deceased relative; or

(ii) That a special circumstance exists which warrants expedited examination and clearance.

(b) For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad, is being imported in connection with his or her arrival, and is intended for his or her bona fide personal or household use. This term does not include any article imported as an accommodation to others or for sale or other commercial use.

§ 148.85 Subsequent importations for the personal or family use of diplomatic, consular and other privileged personnel.

The privilege of importing free of duty and without the filing of any entry articles for personal or family use, but not as an accommodation for others or for sale or other commercial use, shall be granted upon the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, to the following:

(a) Ambassadors, ministers, charges d'affaires, secretaries, counselors and attaches of foreign embassies and legations accredited to the United States under item 822.10, Tariff Schedules of the United States (19 U.S.C. 1202);

(b) Other representatives, officers and employees of foreign governments, under item 822.30, Tariff Schedules of the United States (19 U.S.C. 1202); and

(c) Other persons designated pursuant to statute or pursuant to treaties between the United States and the countries which they represent, under item 822.40, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 148.86 Articles for official use of representatives of foreign governments.

Office supplies and equipment and other articles for the official use of members and attaches of foreign embassies and legations, consular officers, and other representatives of foreign governments, may be admitted free of duty under item 841.10, Tariff Schedules of the United States, without the filing of an entry, upon the request of the Department of State.

§ 148.87 Officers and employees of, and representatives to public international organizations.

(a) *Exemption for baggage and effects.* The baggage and effects of the alien officers and employees of, or representatives of foreign governments, to the organizations designated by the President as public international organizations pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288), and the baggage and effects of their families, suites, and servants, shall be admitted free of duty and without entry under item 820.30, Tariff Schedules of the United States (19 U.S.C. 1202), but only upon the receipt in each instance of instructions from the United States Customs Service issued at the request of the Department of State.

(b) *Designated public international organizations*. The President, by virtue of the authority vested in him by section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), has designated certain organizations as public international organizations entitled to the free entry privileges of that statute. The following is a list of the public international organizations currently entitled to such free entry privileges and the Executive orders by which they were designated: (Sec. 1, 59 Stat. 669 (22 U.S.C. 288)) **[TDs 74-21, 74-113, 74-143, 75-220, 78-99.]**

Organization	Executive Order	Date
Asian Development Bank	11334	Mar. 7, 1967
Caribbean Organization	10983	Dec. 30, 1961
Coffee Study Group	10943	May 19, 1961
Customs Cooperation Council	11596	June 5, 1971
European Space Research Organization (ESRO)	11760	Jan. 17, 1974
Food and Agriculture Organization	9698	Feb. 19, 1946
Great Lakes Fishery Commission	11059	Oct. 23, 1962
Inter-American Defense Board	10228	Mar. 26, 1951
Inter-American Development Bank	10873	Apr. 8, 1960
Inter-American Institute of Agricultural Sciences	9751	July 11, 1946
Inter-American Statistical Institute	9751	Do.
Inter-American Tropical Tuna Commission	11059	Oct. 23, 1962
Intergovernmental Maritime Consultative Organization	10795	Dec. 13, 1958
International Atomic Energy Agency	10727	Aug. 31, 1957
International Bank for Reconstruction and Development	9751	July 11, 1946
International Centre for Settlement of Investment Disputes	11966	Jan. 19, 1977
International Civil Aviation Organization	9863	May 31, 1947
International Coffee Organization	11225	May 22, 1965
International Cotton Advisory Committee	9911	Dec. 19, 1947
International Cotton Institute	11283	May 27, 1966
International Development Association	11966	Jan. 19, 1977
International Finance Corporation	10680	Oct. 2, 1956
International Hydrographic Bureau	10769	May 29, 1958
International Joint Commission—United States and Canada	9972	June 25, 1948
International Labor Organization	9698	Feb. 19, 1946
International Monetary Fund	9751	July 11, 1946
International Pacific Halibut Commission	11059	Oct. 23, 1962
International Secretariat for Volunteer Service	11363	July 20, 1967
International Telecommunications Satellite Organization (INTELSAT)—Limited privileges only	11718	May 14, 1973
International Telecommunications Satellite Organization (INTELSAT)	11966	Jan. 19, 1977
International Telecommunication Union	9863	May 31, 1947
International Wheat Advisory Committee (International Wheat Council)	9823	Jan. 24, 1947
Organization for Economic Cooperation (now known as the Organization for Economic Cooperation and Development)	10133	June 27, 1950
Organization of African Unity (OAU)	11767	Feb. 19, 1974
Organization of American States	10533	June 3, 1954
Pan American Health Organization (includes the Pan American Sanitary Bureau)	10864	Feb. 18, 1960
Pan American Union	10533	June 3, 1954
Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now known as the Intergovernmental Committee for European Migration)	10335	Mar. 28, 1952
Southeast Asia Treaty Organization	10866	Feb. 23, 1960
South Pacific Commission	10086	Nov. 25, 1949
United International Bureau for the Protection of Intellectual Property	11484	Sept. 29, 1969
United Nations	9698	Feb. 19, 1946
United Nations Educational, Scientific, and Cultural Organization	9863	May 31, 1947
Universal Postal Union	10727	Aug. 31, 1957
World Health Organization	10025	Dec. 30, 1948
World Intellectual Property Organization	11866	June 18, 1975
World Meteorological Organization	10676	Sept. 1, 1956

§ 148.88 Certain representatives to and officers of the United Nations and the Organization of American States.

(a) *Exemption for baggage and effects and admission without entry.* At the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, the privilege of admission free of duty without the filing of an entry may be extended to the baggage and effects of the following alien representatives, officers, and members of the staff of the United Nations and the Organization of American States, and their personal baggage is ordinarily exempt from inspection, subject to § 148.82(e)(2):

(1) Every person designated by a United Nations member nation as the principal resident representative to the United Nations of such member or as a resident representative with rank of ambassador or minister plenipotentiary and members of their families;

(2) Such resident members of their staffs as may be agreed upon between the Secretary-General of the United Nations, the Government of the United States, and the Government of the United Nations member concerned and members of their families;

(3) Every person designated by a United Nations member of a specialized United Nations agency as its principal resident representative, with the rank of ambassador or minister plenipotentiary at the headquarters of such agency in the United States and members of their families;

(4) Such other principal resident representatives of United Nations members to a specialized United Nations agency and such resident members of the staffs of representatives to a specialized United Nations agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States, and the Government of the United Nations member concerned and members of their families;

(5) The Secretary-General, Under Secretaries-General, and Assistant Secretaries-General to the United Nations and members of their families;

(6) Representatives of members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, while exercising their functions and during their journey to and from the place of meeting, with regard to personal baggage only;

(7) Experts performing missions for the United Nations, the same facilities for personal baggage as are accorded diplomatic envoys;

(8) Any person designated by a member of the Organization of American States as its representative or interim representative on the council of the Organization of American States and members of their families; and

(9) All other permanent members of the Delegation of a member of the Organization of American States and members of their families regarding whom there is agreement for that purpose between the government of the member state concerned, the Secretary-General of the Organization of American States, and the Government of the United States of America.

(b) *Absence of special request.* In the absence of a special request from the Department of State prior to the arrival of persons of the classes enumerated in paragraph (a) of this section, the privilege of admission free of duty without entry may be extended to their baggage and effects upon presentation of their credentials or other proof of identity.

(c) *Importations for personal or family use.* Upon the request of the Department of State and appropriate instructions from the United States Customs Service, the privilege of importing without entry and free of duty articles for their personal or family use but not as an accommodation for others or for sale or other commercial use may be granted to persons of the classes enumerated in paragraph (a) of this section except those in paragraph (a) (6) and (7), of this section, under item 822.40, Tariff Schedules of the United States (19 U.S.C. 1202).

(d) *Personal inviolability.* The person of the representatives to and officers of the United Nations and the Organization of American States set forth in paragraph (a) of this section shall be free from arrest, search, and detention except that persons of the rank set forth in paragraph (a) (6) and (7) of this section shall be accorded this privilege only while exercising their function and traveling to and from the place of meeting.

§ 148.89 Property of public international organizations.

(a) *Exemption from duty.* Property of designated international organizations listed in paragraph (b) of § 148.87 shall be admitted free of duty and internal-revenue taxes imposed upon or by reason of importation under 22 U.S.C. 288a(d), but such exemption shall be granted only upon the receipt in each instance of instruction from the United States Customs Service issued at the request of the Department of State.

(b) *Bond.* Any Customs bond which may be required from a designated international organization (see paragraph (b) of § 148.87) in connection with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

§ 148.90 Foreign military personnel.

(a) *Exemptions allowed.* District directors shall in accordance with the provisions of this section admit the following free of duty and internal revenue tax imposed upon or by reason of importation:

(1) The baggage and effects of persons on duty in the United States as members of the armed forces of any foreign country, and of their immediate families under item 820.40, Tariff Schedules of the United States (19 U.S.C. 1202);

(2) Articles entered or withdrawn from warehouse for consumption by a member of the armed forces of any foreign country on duty in the United States, for his personal use or that of any member of his immediate family but not as an accommodation to others or for sale or other commercial use, under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202); and

(3) Articles entered or withdrawn from warehouse for consumption for the official use of members of the armed forces of any foreign country on duty in the United States, under item 841.20, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Reciprocity limitation.* When district directors have been advised officially of a finding by the Secretary of the Treasury that a foreign country does not reciprocate to members of the armed forces of the United States on duty in its country and members of their immediate families the privileges accorded its members and their families in the United States, the district directors shall accord to the personnel of such foreign government privileges under the law only to the extent to which the foreign government accords similar treatment to members of the armed forces of the United States and members of their immediate families.

(c) *Status of importer questioned.* If any question arises as to the status of the importer under item 820.40, 822.20, or 841.20, Tariff Schedules of the United States (19 U.S.C. 1202), or whether articles entered thereunder are for official use or for personal or family use, but not as an accommodation to others or for sale or other commercial use, the district director shall report the available facts to the Commissioner of Customs for instructions.

(d) *Alcoholic beverages for personal or family use*—(1) *General rule*—(i) *Limitation stated.* Except in the case of exceptional circumstances set forth in paragraph (d)(2) of this section, entry of alcoholic beverages (other than malt beverages) for personal or family use but not as an accommodation to others or for sale or other commercial use under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), is limited to one case each month.

(ii) *Advance entry or withdrawal.* A maximum of three cases (the initial one plus two cases in advance) may be entered or withdrawn at any one time in a given 3-month period if the district director is satisfied they are for personal or family use but not as an accommodation to others or for sale or other commercial use. Such advance entry or withdrawal shall not be deemed to broaden the one case per month limitation.

(iii) *Certification.* At the time of each entry or withdrawal, the member of the Armed Forces must certify that since his last entry or withdrawal there have expired a number of months equal to the numbers of cases last entered or withdrawn.

(2) *Exceptional circumstances.* In exceptional circumstances an additional quantity of alcoholic beverages for personal or family use but not as an accommodation to others or for sale or other commercial use, in excess of the one case per month limitation may be allowed under the following procedure:

(i) A statement signed by the member of the Armed Forces and attached to his declaration for free entry will be submitted to the district director, setting forth the reason for requesting the additional quantity;

(ii) The statement of request must be approved by the officer or person in charge of the Armed Forces involved, or a person specifically authorized by such officer or person to approve such requests; and

(iii) The district director must be satisfied that the need for the additional quantity is justified. Questionable cases shall be referred to the Commissioner of Customs for instructions.

(3) *Retention and verification of the warehouse proprietors' records.* The warehouse proprietor shall retain all records relating to the entry and withdrawal of alcoholic beverages under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), for 3 years from the date of the entry against which the withdrawal of the alcoholic beverages is charged. Verification of the warehouse proprietors' records shall be at the discretion of the district director. **[TD 79-159.]**

(e) *Entry requirements.* The entry requirements prescribed in the Tariff Act of 1930, as amended (Title 19, United States Code), and the regulations thereunder are applicable to articles for which free entry is claimed under item 820.40, 822.20, or 841.20, Tariff Schedules of the United States (19 U.S.C. 1202). No invoices shall be required.

Subpart J—Noncommercial Importations of Limited Value

§ 148.101 Applicability.

Each person, including a crewmember, arriving in the United States who enters articles for his personal or household use, or as bona fide gifts not imported for sale nor for the account of another person, valued in the aggregate at not over $600 fair retail value in the country of acquisition, shall be assessed a flat rate of duty on the articles, as provided in section 148.102. The entry shall be made under item 869.00 or 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), and is subject to the limitations and conditions in this subpart. Except as provided in section 148.105, the flat rate of duty shall be assessed in place of rates of duty other than free rates of duty. If the dutiable amount of the article(s) is over $600 fair retail value, the flat rate of duty provisions shall apply to the amount not over $600 fair retail value, and the excess amount shall be valued under section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). The article(s) shall be classified under the appropriate item number of the tariff schedules. For purposes of this subpart, "fair retail value" in the country of acquisition means the price at which the merchandise is freely offered there for sale at retail and "country of acquisition" includes American Samoa, Guam, and the Virgin Islands of the United States. **[TD 78-394]**

Two examples of the application of this subpart are set forth below:

Example 1—B returned from Europe where he acquired merchandise having a fair retail value of $1,050. Assume for purposes of this example that (1) in addition to the personal exemption of $300, $100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, and (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate.

B presents his baggage to the Customs officer for examination and his declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The $300 personal exemption	$300	
(b) Articles which carry a free rate of duty	100	
(c) The $600 flat rate of duty allowance calculated at 10 pct	600	$60
(d) Balance of articles subject to duty at rates other than flat rate	[1] 50	(1)
Total	[1] 1,050	(1)

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under sec. 402 or 402(a). Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

Example 2—Mr. and Mrs. B return from the U.S. Virgin Islands. During the trip, they acquired merchandise having a fair retail value of $2,900. Assume for purposes of this example that (1) in addition to the personal exemption of $600 for each returning resident, $100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate, and (4) Mrs. B made $400 in purchases on the trip, none of which carries a free rate of duty.

Mr. and Mrs. B present their baggage to the Customs officer for examination and their declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The $600 personal exemptions for residents returning from the Virgin Islands are grouped for a total of	$1,200	
(b) Articles which carry a free rate of duty	100	
(c) The $600 flat rate of duty allowances calculated at 5 pct for persons arriving from the Virgin Islands are grouped for a total of	1,200	$60
(d) Balance of articles subject to duty at rates other than flat rates of duty	[1] 400	(1)
Total	[1] 2,900	(1)

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under sec. 402 or 402(a), Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

§ 148.102 Flat rate of duty.

(a) *Generally.*—The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, or the Virgin Islands of the United States) shall be 10 percent of the fair retail value in the country of acquisition.

(b) *Insular possessions.*—The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these insular possessions as an incident of the person's physical presence there, shall be 5 percent of the fair retail value in the insular possession in which acquired.

§ 148.103 Family grouping of allowances.

(a) *Generally.*—When members of a family residing in one household travel together on their return to the United States, the flat rate of duty allowance will be grouped and allowed without regard to which member of the family is the owner of the articles. A group allowance shall not include an allowance for a family member not entitled to it in his own right, nor shall a group allowance be applied to any property of that member.

(b) *Members of a family residing in one household.*—"Members of a family residing in one household" shall include all persons, regardless of age, who:

(1) Are related by blood, marriage, or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live in one household after their arrival in the United States.

§ 148.104 Frequency of use.

(a) *30-day period.*—The flat rate of duty shall not apply to a person who has used the provision within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he declared articles for which the flat rate of duty was applicable shall be considered the date that rate was last used.

(b) *Computation of time.*—The 30-day period immediately prior to the person's arrival in the United States shall be computed by excluding the day of arrival and counting backward 30 days.

(c) *Remainder not applicable to subsequent journey.*—A person who has received a flat rate of duty allowance of less than $600 in connection with his return from one journey is not entitled to apply the remainder to articles acquired abroad on a subsequent journey.

§ 148.105 Procedure for excluding articles from flat rate of duty.

(a) *Generally.*—Any person who has information that merchandise is being imported into the United States under the provisions of item 869.00 or 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), and this subpart which adversely affects the economic interest of the United States may communicate the information in writing to the Commissioner of Customs, Attention: Office of Operations, Washington, D.C. 20229.

(b) *Content of communication.*—The communication to the Commissioner need not be in any particular form but shall contain the following:

(1) the name of the individual and the person, firm, or association the individual represents, if any;

(2) The nature of the individual's interest in the matter, if any;

(3) A description of the merchandise, which it is alleged affects the economic interest of the United States adversely, including item numbers of the tariff schedules, if known;

(4) The country of acquisition and the ports and dates of entry of the merchandise, if known; and

(5) A statement and supporting evidence as to the manner in which the individual believes the economic interest of the United States is being adversely affected.

(c) *Inquiry to be conducted.*—Upon receipt of a communication containing the information required by paragraph (b), an inquiry will be conducted.

(d) *Negative determination.*—If the inquiry results in a finding that no reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is adversely affecting the economic interest of the United States, the inquirer shall be advised in writing of the finding and the matter shall be closed.

(e) *Publication of tentative finding.*—If the inquiry results in a finding by the Secretary of the Treasury that reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is affecting the economic interest of the United States adversely, a notice of the finding will be published in the Federal Register and Customs Bulletin, along with a statement of intent to exclude the articles from application of the flat rate of duty provisions. Interested persons will be given an opportunity to submit written comments on the notice.

(f) *Final determination.*—Based upon the comments received and the results of any additional inquiry as may be necessary, if it is determined by the Secretary of the Treasury that application of the flat rate of duty provisions adversely affects the economic interest of the United States, a Treasury decision will be published in the Federal Register and Customs Bulletin announcing that the merchandise will be excluded from application of the flat rate of duty provisions. Excluded articles of merchandise shall be listed in section 148.106. If it is determined by the Secretary of the Treasury that a valid basis for excluding the merchandise from the flat rate of duty provisions does not exist, the notice proposing to exclude the article will be withdrawn by publishing a notice in the Federal Register and the Customs Bulletin.

§ 148.106 Excluded articles of merchandise.

The following articles of merchandise have been found to affect the economic interest of the United States adversely, and they are excluded from the application of the flat rate of duty provisions.

(Reserved for listing.)

Subpart K—Unaccompanied Shipments from American Samoa, Guam, or the Virgin Islands of the United States

§ 148.110 Applicability.

The provisions of this subpart are applicable to articles not accompanying a person, including a crewmember, which are purchased in and shipped from American Samoa, Guam, or the Virgin Islands of the United States. However, this subpart is not applicable to the importation of unaccompanied articles in a manner prohibited by law or regulation (e.g., mail shipments of alcoholic beverages or alcoholic beverages shipped other than by mail in excess of quantities authorized by state laws or regulations). **[TD 78-394]**

The following is a summary of the procedure to be followed to obtain the benefits of this subpart: A person purchasing articles in American Samoa, Guam or the Virgin Islands of the United States would receive a sales slip, invoice or other evidence of purchase which he would present to the Customs officer along with his baggage declaration, Customs Form 6059-B, and a Declaration of Unaccompanied Articles, Customs Form 255. The latter form is prepared in triplicate for each shipment to follow. The Customs officer would verify the information, indicate on the form whether the article or articles were free of duty, dutiable at the flat rate, or a combination of the foregoing, and validate the form. Two copies would be returned to the traveler, who would send one form to the vendor. Upon receipt of the form the vendor would place it in an envelope, affix it to the outside of the package, clearly mark the package "Unaccompanied Tourist Shipment," and send the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by Customs and forwarded to the Postal Service for delivery. Any duties due would be collected by the mailman. If the shipment arrives other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

§ 148.111 Written declaration for unaccompanied articles.

The baggage declaration, Customs Form 6059-B, of a person (the crewmembers declaration, Customs Form 5129, in the case of a returning crewmember) arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States shall be in writing if it covers articles which do not accompany him and:

(a) The articles are entitled to free entry under the $600 exemption provided by item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or

(b) The articles are noncommercial importations of limited value subject to a flat rate of duty under item 869.10 of the tariff schedules.

§ 148.112 Evidence of purchase.

A sales slip, invoice, or other evidence of purchase, shall be presented with the declaration for all unaccompanied articles.

§ 148.113 Declaration, entry and collection of duty.

(a) *Declaration and entry for unaccompanied articles.*

(1) *Declaration.*—A baggage declaration covering articles for which a claim of free entry, in whole or in part, is made under the $600 exemption provided by item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or a baggage or crewmembers declaration covering articles for which the flat rate of duty provision of item 869.10 of the tariff schedules appears to be applicable, shall be accompanied by a Declaration of Unaccompanied Articles, Customs Form 255. Customs Form 255 shall be prepared in triplicate by the vendor or declarant for each shipment of declared articles not accompanying the person. A shipment consists of one or more packages or containers sent as a unit.

(2) *Verification.*—The Customs officer shall verify the information from the declaration, sales slip, invoice, or other evidence of purchase furnished by the person. The completed Customs Form 255 shall be validated by the Customs officer and two copies given to the person.

(b) *Collection of duty.*—Duties shall be collected before release of the articles, after their arrival in the United States, as provided in section 145.12 or 148.115.

§ 148.114 Shipment of unaccompanied articles.

One copy of the validated Customs Form 255 shall be returned to the vendor. The vendor shall place the form in an envelope, affix it to the outside of the shipment, and clearly mark the outside of the shipment "Unaccompanied Tourist Shipment."

§ 148.115 Release of shipment.

(a) *Release after examination.*—Unaccompanied tourist shipments—

(1) To which the personal exemption provided in item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), is applicable, or

(2) For which entry is made under the flat rate of duty provisions of item 869.10 of the tariff schedules, or under those provisions in conjunction with the regular rate of duty provision of another item of the tariff schedules, shall be released if:

(i) The shipment is properly marked and accompanied by a validated copy of Customs Form 255,

(ii) The examining Customs officer is satisfied that the contents of the shipment are as stated on the Customs Form 255 and, if applicable, that they are properly classified,

(iii) The declared value conforms to the fair retail value in the country of acquisition, and

(iv) In respect to shipments for which entry is made under item 869.10, any duties found to be due are paid.

(b) *Removal of Customs Form 255.*—The copy of Customs Form 255 attached to the shipment shall be removed by the Customs officer and retained for Customs purposes.

(c) *Missing Customs Form 255.*—If a validated copy of Customs Form 255 does not accompany the shipment, entry shall be made under the provisions of part 141 or 145 of this chapter.

(d) *Restricted or prohibited shipments.*—No shipment containing prohibited or restricted merchandise for which exemption is claimed under item 813.31 of the Tariff Schedules of the United States (19 U.S.C. 1202), or for which entry is claimed under item 869.10 of the tariff schedules, shall be released except upon compliance with the provisions of part 12 and sections 145.51 through 145.59 of this chapter, and other applicable laws and regulations.

(e) *Verification of claim.*—The district director may withhold release of any shipment for which exemption is claimed under item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or for which entry is claimed under item 869.10 of the tariff schedules, to verify the validity of the claim. If he is unable to verify the claim, the merchandise shall be released under the provisions of part 141 or 145 of this chapter.

§ 148.116 Claim for refund.

Any person who has filed a declaration of unaccompanied articles under sections 148.112 and 148.113 and who is dissatisfied with the amount of duty assessed on the articles upon their arrival in the United States may file a claim for administrative review under subpart C, part 145, of this chapter if the articles arrived by mail, or under parts 173 and 174 if the articles arrived other than by mail. Any supporting documents, including a copy of Customs Form 255, should be submitted with the claim.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

Sec.
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Authority: R.S. 251, as amended, 77A Stat. issued under R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (gen. hdnotes. 11, 12 Tariff Schedules of the United States), 1624. Subpart A also issued under sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499. Subpart D also issued under sch. 6, pt. 1, hdnotes. 1-6, Tariff Schedules of the United States; 19 U.S.C. 1202. Subpart E also issued under sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States; 19 U.S.C. 1202. Subpart F also issued under sch. 3, pt. 1A, hdnote. 3, Tariff Schedules of the United States; 19 U.S.C. 1202. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

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Source: T.D. 73-175, 38 FR 17470, July 2, 1973, unless otherwise noted.

§ 151.0 Scope.

This part sets forth general provisions governing the examination and sampling of imported merchandise, as well as specific provisions governing the examination, sampling, and testing of certain particular types of merchandise. **[TD 73-175.]**

Subpart A—General

§ 151.1 Merchandise to be examined.

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

§ 151.2 Quantities to be examined.

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(i) Imported in packages the contents and values of which are uniform, or

(ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the district director is authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the Customs laws and any other laws enforced by the Customs Service. **[TD 81-240.]**

(b) *Nonprivileged foreign merchandise from foreign-trade zone.* When a portion of a zone lot of nonprivileged foreign merchandise covered by one invoice, the contents and value of packages of which are uniform or the merchandise is identical as to character although differing as to quantities and value per package, has been entered and packages or quantities have been examined, the district director may, if he considers further examination unnecessary, permit subsequent entries for consumption from such zone lot of merchandise to be made by the same importer at the same port of entry on the basis of the first examination. Each subsequent portion of such a zone lot of merchandise shall identify the first consumption entry made by the importer of a portion of the lot.

(c) *Additional quantities.* Paragraphs (a) and (b) of this section shall not be construed to prevent the district director from examining more than the minimum number of packages required if he deems it necessary.

§ 151.3 Disclosure of examination packages.

Information as to the particular packages which will be examined shall not be made available to the importer, his agent, or any person other than Customs officers necessarily concerned, until the merchandise has arrived within the limits of the port of entry.

§ 151.4 Time of examination.

Imported merchandise shall not be opened, examined, or inspected until it has been entered under some form of entry for consumption or warehouse, except in the following cases:

(a) *Official Government examination and sampling.* Authorized employees of the Customs Service, Food and Drug Administration, Animal and Plant Health Inspection Service, Public Health Service, or other Government agency may for official purposes examine or take samples of merchandise for which entry has not been filed, including merchandise being released under a special permit for immediate delivery.

(b) *Perishable merchandise, benzenoid chemicals, and merchandise received without an invoice.* An application by the importer to examine merchandise, whether or not covered by an entry for transportation in bond or for exportation, may be granted by the district director, under the conditions listed in § 151.5, in the following cases:

(1) Examination of perishable merchandise is desired solely to determine its condition. This is not limited to a single examination, and there is no objection to incidental display to prospective buyers during the examination.

(2) The importer desires to sample benzenoid chemicals or products in accordance with § 152.35 of this chapter prior to making an entry for consumption or warehouse.

(3) The importer has been unable to obtain the required documents or information to make the necessary entry, and examination of the merchandise is required to obtain information for the preparation of a pro forma invoice to be used in making entry.

(c) *Examination of merchandise entered for transportation under bond or for exportation*—(1) *Examination, sampling, weighing or emergency operation.* As a bona fide incident to exportation or further transportation, the importer of merchandise entered or withdrawn for transportation under bond or for exportation may, upon written application to the district director supported by a valid business reason for the request, be permitted to examine, sample, weigh, or subject his merchandise to an operation required by reason of an emergency, provided that any operation performed on the merchandise does not constitute a manufacture, and that § 151.5 is complied with. For conditions governing transshipment and emergency access to the shipment by the carrier, see § 18.3 of this chapter.

(2) *Nonemergency operation.* In cases not involving an emergency, an operation not constituting a manufacture may be permitted under the conditions listed in subparagraph (1) of this paragraph if neither the protection of the revenue nor the proper conduct of Customs business requires that the operation be done in a Customs bonded warehouse, provided that the importer's written application for such operation is approved by both the district director and the Commissioner of Customs.

§ 151.5 Conditions for examination prior to entry.

Examination, sampling, weighing, or operation upon merchandise at the importer's request prior to entry for consumption or warehouse, as provided for in § 151.4 (b) and (c), shall be subject to the following conditions:

(a) The operation permitted shall be executed under Customs supervision;

(b) If the merchandise is in possession or joint possession of a carrier or container station operator, the concurrence of such carrier or operator shall be obtained; and

(c) The Government shall be reimbursed for the compensation, computed in accordance with § 19.5(b) of this chapter, and other expenses of the Customs officer or employee supervising the action permitted.

§ 151.6 Place of examination.

Inflammable, explosive, or dangerous merchandise, or any other merchandise which cannot be examined conveniently at the public stores shall be examined at the place of arrival, the importer's premises, or other suitable place. All other merchandise shall be examined at the public stores, unless examination at a place other than the public stores is approved in accordance with § 151.7.

§ 151.7 Importer's request for examination at other than public stores.

The importer may request examination at a place other than the public stores, such as at the wharf or other place of arrival or at the importer's premises. The request may be made on the entry or other appropriate document and if approved shall be subject to the following conditions:

(a) *Sealing of packages.* If examination is to be made at the importer's premises or other place not under control of a Customs officer, the district director may require the packages to be corded and sealed by a Customs officer before the packages are removed from the place of arrival. The packages shall be opened only in the presence of the Customs officer authorized to examine their contents.

(b) *Opening and closing packages.*

(1) *At place of arrival within port limits.* When the examination is to be performed at the place of arrival, such as a pier, dock, or terminal, within the port limits, the importer shall arrange with the operator of the pier, dock, terminal, or other facility for the opening and closing of examination packages, unless other arrangements satisfactory to the district director are made.

(2) *Other.* When the examination is to be performed outside the port limits, or at any place within the port limits other than at the public stores or at the place of arrival within the meaning of subparagraph (1) of this paragraph, the importer shall arrange to open and close the examination packages.

(c) *Reimbursement of expenses outside port limits.* If the place of examination is not located within the limits of a port of entry or a Customs station at which a Customs officer is permanently located, the importer shall pay any additional expense, including actual expenses of travel and subsistence but not the salary of the examining officer. However, no collection shall be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more but less than $1, a minimum charge of $1 shall be made.

(d) *Bond for removal from Customs custody.* Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a Customs officer, the district director shall require the importer to execute a bond on Customs Forms 7551, 7553, or other appropriate form, containing a condition for the return of the merchandise if demand for return is made after its release from Customs custody upon the completion of examination. The bond shall contain added conditions that:

(1) The importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from Customs custody;

(2) If such merchandise has been corded and sealed, the cords and seals shall be kept intact until removed by Customs officers; and

(3) The importer shall transfer the merchandise at any time before such release to such place as the district director may require.

§ 151.8 Examination after assembly.

(a) *Application by importer.* Upon application by the importer, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined at the mill, factory, or other suitable place after being assembled.

(b) *Conditions applicable.* The importer shall comply with the conditions set forth in § 151.7 (b) through (d). The district director may also require that a deposit be made of the estimated additional expense. The packages need not be corded and sealed in accordance with § 151.7(a), but the district director may make such preliminary examination as he deems necessary to identify the merchandise with the invoice.

Removal of merchandise and notification of assembly. After the bond required by § 151.7(d) has been filed and any necessary preliminary examination has been made, the district director may permit the merchandise to be removed to the place at which it is to be assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the district director, the importer shall notify the district director that the merchandise has been assembled and is ready for examination, whereupon final examination shall be made.

§ 151.9 Immediate transportation entry delivered outside port limits.

When merchandise covered by an immediate transportation entry has been authorized by the district director to be delivered to a place outside a port of entry as provided for in § 18.11(c) of this chapter, the provisions of § 151.7 shall be complied with to the same extent as if the merchandise had been delivered to the port of entry, and then authorized to be examined elsewhere than at the public stores, wharf, or other place where a Customs officer is stationed.

§ 151.10 Sampling.

When deemed necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official Customs purposes. Representative samples shall be selected by an authorized Customs officer, and shall be properly marked to insure identification and retained as long as the district director shall deem necessary.

§ 151.11 Request for samples or additional examination packages after release of merchandise.

If the district director requires samples or additional examination packages of merchandise which has been released from Customs custody, he shall send the importer a written request, on Customs Form 28, Request for Information, or other appropriate form, to submit the necessary samples or packages. If the request is not promptly complied with, the district director may make a demand under the appropriate bond for the return of the necessary merchandise to Customs custody in accordance with § 141.113 of this chapter. **[TD 75-152.]**

§ 151.12 Benzenoid chemicals and products.

Additional procedures for sampling and testing of benzenoid chemicals and products are set forth in subpart D of Part 152 of this chapter.

Subpart B—Sugars, Sirups, and Molasses

§ 151.21 Definitions.

The following are general definitions for the purposes of this subpart in applying schedule 1, part 10, Tariff Schedules of the United States (19 U.S.C. 1202):

(a) *Degree*. "Degree" or "sugar degree" means the percentage of sucrose contained in the sugar as shown by direct polarimetric estimation.

(b) *Total sugars*. "Total sugars" means the sum of the sucrose, the raffinose, and the reducing sugars.

§ 151.22 Estimated duties on raw sugar.

Estimated duties shall be taken on raw sugar on the basis of not less than 96° polariscopic test unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

§ 151.23 Allowance for moisture in raw sugar.

Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of raw sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

§ 151.24 Unlading facilities for bulk sugar.

When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Commissioner of Customs as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

§ 151.25 Mixing classes of sugar.

No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, or testing.

§ 151.26 Molasses in tank cars.

When molasses is imported in tank cars, the importer shall file with the district director a certificate showing whether there is any substantial difference either in the total sugars or the character of the molasses in the different cars.

§ 151.27 Weighing and sampling done at time of unlading.

Sugar, sirup, and molasses requiring either weighing or sampling shall be weighed or sampled at the time of unlading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously.

§ 151.28 Gauging of sirup or molasses discharged into storage tanks.

(a) *Plans of storage tank to be filed.* When sirup or molasses is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed with the district director a certified copy of the plans and gauge table of the storage tank showing all inlets and outlets and stating accurately the capacity in United States gallons per inch of height of the tank from an indicated starting point. **[TD 80-142.]**

(b) *Settling before gauging.* After the discharge is completed, all inlets to the tank shall be carefully sealed and the sirup or molasses left undisturbed for a period not to exceed 20 days to allow for settling before being gauged. When a request for immediate gauging is made in writing by the importer, it shall be allowed by the district director. **[TD 80-142.]**

§ 151.29 Expense of unlading and handling.

No expense incidental to the unlading, transporting, or handling of sugar, sirup, or molasses for convenient weighing, gauging, measuring, sampling, or marking shall be borne by the Government. **[TD 80-142.]**

§ 151.30 Sugar closets.

Sugar closets for samples shall be substantially built and secured by locks furnished by Customs. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

§ 151.31 Review of tests of sugar, sirup, and molasses.

(a) *Notification to importer.* When the test of the sugar has been determined by the Customs laboratory for an importation of sugar, sirup, or molasses, the district director shall immediately send the importer a copy of the Laboratory Report, Customs Form 6415, showing the average test of the importation and the quantity and test of each lot from which such average test is obtained.

(b) *Review of test of raw sugar.* If the importer, within 2 days, exclusive of Saturdays, Sundays, and holidays, after notification of a test on raw sugar has been sent to him, claims an error in the test so reported, he may request a review of the average test, submitting such evidence that may be in his possession to support his claim. Settlement tests of the sugar in question together with any other information required by the district director shall be furnished by the importer. The district director shall arrive at a final determination based upon a review of the information available. In no instance shall a request for review be granted when the difference between the Customs average test and the settlement test of raw sugar is less than 0.4° S.

(c) *Review and retest of sirup or molasses.* If the importer claims an error in the test of sirup or molasses, the review procedures set forth in paragraph (b) of this section shall be followed. If the information in the district director's possession indicates a strong probability of an error, and the difference between the Customs test and the settlement test is not less than 2 percent total sugars, a retest shall be granted. The district director shall arrive at a final determination based upon a review of the information submitted and the retest.

Subpart C—Petroleum and Petroleum Products

§ 151.41 Information on entry summary.

On the entry summary for petroleum or petroleum product in bulk, the importer shall show the API gravity at 60°

Fahrenheit, in accordance with the current edition of the ASTM-IP Petroleum Measurement Tables (American Edition), published by the American Society for Testing and Materials. The appropriate unabridged Table shall be used in the reduction of volume to 60° F. If the exact volumetric quantity cannot be determined in advance, the entry summary may be made for "_______ United States gallons, more or less", but in no case may the estimate vary by more than three percent from the gross quantity unladen. The information required by this section also shall be shown on the entry summary permit if the entry summary is filed at the time of entry, and on each entry summary continuation sheet regardless of when the entry summary is filed. **[TD 74-89.]**

§ 151.42 Controls on unlading and gauging.

(a) *Methods of control.*

(1) Each district director shall establish controls and checks on the unlading and measurement of petroleum and petroleum products imported in bulk by vessel, truck, railroad car, pipeline, or other carrier. One of the following methods of control shall be employed:

(i) Customs approved positive displacement meters at installations where provided by the importer;

(ii) Customs approved turbine-type meters at installations where provided by the importer;

(iii) Shore tank gauging; or

(iv) Weighing for trucks and railroad cars.

(2) Vessel ullages shall be taken in every case unless the district director determines that it is impracticable to do so for safety or technological reasons. Ullages may be taken for trucks and railroad cars if weighing or shore tank gauging is not available as a method of control. Vessel ullages will not be used to determine the quantity unladen unless none of the other methods provided for in this paragraph is available or adequate.

(b) *Duties of Customs officers.* Customs officers shall perform or witness ullaging and gauging as follows:

(1) Opening ullages.

(2) Closing ullages of carriers which have not completely discharged cargo, or if an importer or carrier requests Customs to witness closing ullages because of special problems.

(3) Shore tank guages performed by company or related-party employees.

(4) Between 5 and 10 per cent of shore tank gauges performed by public gaugers.

(5) Shore tank gauges, including those conducted by a public gauger if no carrier ullages are taken.

(c) *Manifest discrepancies.* Manifest discrepancies (shortages and overages) shall be reported by or on behalf of the carrier in the manner specified in section 4.12 of this chapter. If a reported discrepancy is not explained to the satisfaction of the district director, the master or other person in charge, or the owner of the vessel or vehicle, or any person directly or indirectly responsible for the discrepancy, will be subject to the imposition of the appropriate penalty under section 460, 584, or 592, Tariff Act of 1930, as amended (19 U.S.C. 1460, 1584, 1592).

§ 151.43 Public gaugers.

(a) *Acceptance of quantity reports.* Subject to such controls and checks as he may deem necessary, the district director may accept, for shore tank gauging and closing carrier ullages, the reports of quantities of imported petroleum and petroleum products made by public gaugers approved by the Commissioner in accordance with this section, provided—

(1) Customs officers have exercised the supervision required by section 151.42(b) of this part, and

(2) There is no evidence that the public gauger has failed to comply with the provisions of this subject.

(b) *Application.* Any public gauger desiring approval shall submit an application, which may be in the form of a letter, to the Commissioner of Customs, Washington, D.C. 20229. The application shall contain or be accompanied by the following:

(1) The applicant's name, address, and ownership, and a statement of financial condition.

(2) If a corporation, a copy of its articles of incorporation, a list of its officers and directors, and details of any parent-subsidiary relationship.

(3) A detailedstatement of the applicant's qualifications.

(4) The Customs district(s) for which approval is requested.

(5) A written agreement in the following form to avoid conflict-of-interest situations and to comply with operating requirements prescribed by Customs:

Public Gauger Agreement

As conditions for the approval of this application, I undertake and agree:

(1) To have no financial interest or other connection (except for acceptance of the usual fees for gauging services) with any business or other activity which might be considered to affect the unbiased performance of my duties as a public gauger for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs.

(2) To comply with the requirements of Part 151, Subpart C, Customs Regulations (19 CFR Part 151, Subpart C), and with any procedures prescribed by the Commissioner or district director of Customs pursuant to that subpart.

(3) To notify the Commissioner and district director of Customs in writing within 60 days of any change of name, address, ownership, or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent subsidiary relationship.

(4) To communicate immediately to the Commissioner and district director of Customs notice of any—

(i) Effort to influence, or otherwise impede, the performance of my duties in connection with the proper gauging of petroleum or petroleum products, or

(ii) Attempt to coerce me fraudulently to change or falsify records maintained in the course of my employment.

(6) A bond in the amount of $10,000 to insure that the gauging will be in conformance with the approved standards and procedures, and with such procedures as may be prescribed by the district director pursuant to paragraph (f) of this section. The form of the required bond will be available from any district director.

(c) *Investigation of applicant.* The Commissioner shall direct the Office of Investigations to determine the applicant's fitness and reputation, and to verify the correctness of the statements made in the application.

(d) *Notice of approval, disapproval, suspension, or revocation.* When the investigation is completed, the applicant will be advised of the approval of his application, or, if disapproved, of the reasons for such action. An approval may be suspended or revoked by the Commissioner for failure to comply with any of the provisions of this subpart, or liquidated damages may be assessed under the public gauger bond described in section 113.13(b) of this chapter. Notice of approvals or suspensions or revocations of approval will be published from time to time in the Customs Bulletin.

(e) *Requirements for operations.* To be approved for Customs purposes, a public gauger's operations shall conform to the following requirements.

(1) All measuring, testing, and sampling devices in use shall be maintained in first-class condition. Each device shall be calibrated before the first use, and checked at regular intervals thereafter, against standards whose accuracy is traceable to standards issued by the National Bureau of Standards. In making calibrations and checks, the applicable methods of the American Society for Testing and Materials or the American Petroleum Institute shall be used.

(2) All measuring, testing, and sampling procedures shall be in conformance with published industry standards, such as those of the American Petroleum Institute or the American Society for Testing and Materials, and shall conform to such specific procedures as may be required by the district director in accordance with paragraph (f) of this section.

(3) Each public gauger and each other person authorized to sign gauging reports shall furnish Customs with a written certification that he has a minimum of 6 months on-the-job training and experience.

(4)(i) The public gauger shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias called to his attention by the district director, or of which he otherwise may become aware, and immediately shall take corrective measures if indicated. The public gauger shall notify the district director of any such matter of which he may become aware.

(ii) The district director shall notify the Commissioner of each such matter that he brings to the attention of the public gauger, or which the public gauger brings to his attention, and of the corrective measures taken.

(f) *Procedures precribed by district director.* The district director is authorized to prescribe general or specific procedures to be followed by each approved public gauger at each of the discharging facilities in the district.

(g) *Recordkeeping requirement.* Records of the public gauger of the type normally kept in the ordinary course of business, pertaining to the measurement, gauging, testing, and sampling of imported petroleum and petroleum products, shall be maintained for 5 years in accordance with sections 162.1a and 162.1c of this chapter.

(h) *Verification requirement.*

(1) *Compliance.* To ensure compliance with the provisions of this subpart and accuracy and uniformity in the information submitted by public gaugers, the district director shall verify by integrity checks, audits, and, if necessary, investigations, the gauging operations in his district. Any discrepancy between the quantity reported by the gauger and the quantity found by Customs shall be resolved in favor of Customs unless the gauger produces clear and convincing evidence that Customs is in error.

(2) *Sanctions.* If a public gauger's reports are repeatly inaccurate to a significant degree, the gauger may be subject to sanctions in accordance with sections 151.43(d) and (i).

(i) *Suspension or revocation of Customs approval.*—(1) *Grounds.* Failure to comply with the provisions of this subpart may be grounds for suspension or revocation of Customs approval of a public gauger.

(2) *Notice.* The district director shall give written notice of the proposed suspension or revocation to the public gauger. The notice shall be in the form of a statement setting forth specific grounds for the proposed action and shall become final unless the public gauger files a written reply in accordance with paragraph (3) of this subsection. An information copy of the notice shall be forwarded by the district director to Headquarters.

(3) *Reply.* The public gauger may file a written reply with the district director within 10 days following receipt of the notice. An extension of time to reply beyond the 10-day period may be granted for good cause. The reply shall be filed in duplicate and shall set forth the response of the public gauger, including his answers to the allegations and rebuttal evidence, if any. The district director upon request, may allow an oral presentation as to why approval should not be suspended or revoked.

(4) *Action on reply.* If the district director determines that the allegations set forth in the notice have not been proved, he shall notify the public gauger that suspension or revocation no longer is contemplated, and the case shall be closed. Otherwise, the approval shall be suspended or revoked, in which case the district director shall notify the gauger that he may request review of the suspension or revocation by the Commissioner in accordance with paragraph (6). An information copy of the district director's action shall be forwarded to Headquarters.

(5) *Stay of suspension or revocation.* The decision of the district director to suspend or revoke approval shall be stayed until the time for the gauger to file a petition for review by Headquarters has passed and no action has been taken on his part or, if a petition for review has been filed in accordance with paragraph (6), until Headquarters affirms the decision of the district director.

(6) *Review of suspension or revocation of approval.* Petitions for review of suspension or revocation of a public gauger's Customs approval by the district director shall be addressed to the Commissioner and filed in duplicate with the appropriate district director for transmission to Headquarters. Petitions for review shall be filed within 30 days from the date of suspension or revocation of approval and shall state the facts and circumstances relied upon by the petitioner in seeking review of the district

director's order. The petition shall be reviewed by the Commissioner or his designee. Upon completion of the review, a written decision shall be forwarded to the district director for delivery to the public gauger.

(7) *Publication.* Notice of any final action by the district director or the Commissioner suspending or revoking approval of a public gauger shall be published in the Federal Register and the Customs Bulletin.

(j) *Penalties.* In addition to—

(i) Any penalty otherwise provided by law which may be incurred for failure to comply with the provisions of this subpart, or

(ii) Any sanction which may be imposed against a public gauger approved by Customs under the provisions of this subpart, a monetary penalty also may be assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), if appropriate.

§ 151.44 Storage tanks.

(a) *Plans and gauge tables.* When petroleum or petroleum products subject to duty at a specific rate per gallon are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gauge table for each tank showing its capacity in U.S. gallons per inch or fraction of an inch of height shall be certified as correct by the proprietor of the tank. One set of these plans and gauge tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to Customs officers. Another certified set of the shore tank plans and gauge tables shall be filed with the district director for use in verifying the Customs officers' reports. The district director may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gauge tables as he may deem necessary. The storage tank proprietor shall maintain the plans and gauge tables for 3 years after discontinuing use of the storage tanks as bonded warehouses for the storage of imported petroleum or petroleum products. **[TD 79-159.]**

(b) *Tags required on valves.* The inlet and outlet valves of each tank shall have tags of a permanent type affixed by the proprietor or lessee indicating the use of the valves.

(c) *Verification of gauge tables.* Whenever he has reason to suspect their reliability, the district director may require the measurement and calibrations shown on the gauge tables to be verified by a Customs officer. If no qualified Customs officer is available, the district director may accept an independent certification verifying the measurements and calibrations. The independent verification shall be performed at the expense of the storage tank proprietor.

§ 151.45 Storage tanks bonded as warehouses.

(a) *Application.* Tanks for the storage of imported petroleum or petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum or petroleum products belonging or consigned to the owner or lessee of the tank. In addition to the documents and bonds required to be filed with the application to bond (see section 19.2 of this chapter), the certified plans and gauge tables required by section 151.43 shall be filed.

(b) *Removal of nonbonded petroleum.* If a bonded tank is not empty at the time the first importation of bonded petroleum or petroleum products is to be stored therein, the amount of nonbonded petroleum or petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. Domestic or duty-paid petroleum or petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(c) *Information on warehouse withdrawal.* Warehouse withdrawals of petroleum or petroleum products from bonded tanks shall show the information specified in section 151.41, as well as the designation of the tank from which the merchandise is to be withdrawn. Such withdrawals may be made for "_______ U.S. gallons, more or less", but in no case may the estimate vary by more than three percent from the gross quantity unladen.

§ 151.46 Allowance for excessive water and sediment.

Allowance for excessive moisture or other impurities in imported petroleum or petroleum products shall be made in accordance with section 158.13 of this chapter for the quantity of water and sediment, established to be in excess of that usually found in such merchandise, as set forth in the following table:

Merchandise	*Quantity (percent)*
Crude petroleum	0.3
Petroleum products having an API gravity at 60° of less than 22°	0.5
22° to 30°	0.3
More than 30°	0.0

§ 151.47 Entered quantities of petroleum or petroleum products released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the gross quantity of petroleum or petroleum products released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of petroleum or petroleum products unladed. The net quantity shall be determined in accordance with section 158.13 of this chapter, with an allowance made for sediment and excessive water present, as prescribed in the table found in section 151.46, and reported in a laboratory test made by an independent commercial laboratory which has been approved by the Commissioner. The commercial laboratory report shall be filed with the entry summary. **[TD 79-221.]**

(b) *Approval of independent commercial laboratories.* Applications of independent commercial laboratories for approval of the use of their tests in determining the net landed quantity of petroleum or petroleum products shall be sent to the Commissioner of Customs, Washington, D.C. 20229. For the purposes of this section, the approval of a public gauger by the Commissioner in accordance with § 151.43 shall constitute approval of the commercial laboratories operated by the public gauger as a part of the services rendered by him for his customers.

(c) *Use of Customs laboratory tests for liquidation.* Where there is a difference between the quantity reported by the Customs laboratory and the quantity reported by the approved independent commercial laboratory, the results of the Customs laboratory test shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license, unless the difference is within the limits set forth in paragraph (d) of this section.

(d) *Use of commercial laboratory tests for liquidation.* The quantity reported by the approved independent commercial laboratory shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license if the difference between the commercial laboratory test and the Customs laboratory test do not exceed the differences set forth in the following table (adapted from ASTM Designation D1796, Fig. 3): (Sec. 507, 46 Stat. 732; 19 U.S.C. 1507) **[TD 80-142, 45 FR 36384, May 30, 1980]**

Percentage of water and sediment found by Customs laboratory	*Maximum percentage difference allowable*
0.05 to 0.50	0.1
0.51 to 1.50	0.2
More than 1.50	0.3

Subpart D—Metal-Bearing Ores and Other Metal-Bearing Materials

§ 151.51 Sampling requirements.

(a) *General.* Except as provided in paragraph (b) of this section, when metal-bearing ores and other metal-bearing materials which are classifiable under schedule 6, part 1, Tariff Schedules of the United States (19 U.S.C. 1202), are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with § 151.52. If proper facilities for weighing or sampling are not available at the port of entry, the merchandise shall be transported under bond to the place of sampling. The sampling or weighing of metal-bearing ores or materials at any place other than the port of entry shall be at the expense of the parties in interest.

(b) *Ores of low metal content.* When, on the basis of invoice information, the nature of any available sample, knowledge of prior importations of similar materials, and other data, the district director is satisfied that metal-bearing ores entered under item 601.66, Tariff Schedules of the United States (19 U.S.C. 1202), as containing less than 1 percent of metals dutiable under items 602.10, 602.20, 602.28, or 602.30, Tariff Schedules of the United States (19 U.S.C. 1202), are properly entered, he may liquidate the entry on the basis of the assay information contained in the entry papers. However, the sampling and testing procedures prescribed in §§ 151.52 and 151.54 shall be followed at random intervals for verification purposes.

§ 151.52 Sampling procedures.

(a) *Commercial samples taken under Customs supervision.* Representative commercial moisture and assay samples shall be taken under Customs supervision for testing by the Customs laboratory. The samples used for the moisture test shall be representative of shipment at the time the shipment is weighed for Customs purposes. When a shipment is made up of a number of lots a composite sample of the shipment shall be drawn for assay, providing composite sampling is feasible and assays of the individual lots are not required for tariff classification or other Customs purposes. The composite sample shall consist of proportional parts by weight of the prepared sample drawn from the various lots represented and shall be thoroughly mixed.

(b) *Commercial samples furnished by importer.* When commercial samples cannot be taken under Customs supervision, the importer shall be required to furnish a verified commercial moisture sample and prepared assay sample certified to be representative of the shipment at the time the shipment was weighed for Customs purposes. The samples shall be in appropriate containers, properly labeled, and shall be accompanied by a statement including:

(1) Entry number,
(2) Lots represented,
(3) Kind of ore or material,
(4) Date and place where sampling occurred, and
(5) The name and address of the sampling concern.

(c) *Samples taken by Customs.* Where no commercial samples have been taken, the district director shall take representative samples from different parts of the shipment.

§ 151.53 Sample lockers.

A suitable place or containers shall be provided for the safekeeping of all Customs samples under Customs lock or seal.

§ 151.54 Testing by Customs laboratory.

Samples taken in accordance with § 151.52 shall be promptly forwarded to the appropriate Customs laboratory for testing in accordance with commercial methods. The district director may secure from the importer a certified copy of the commercial settlement tests for moisture and for assay which shall be transmitted with the commercial samples to the Custom laboratory. If the Customs tests are not in substantial agreement with the settlement tests, the chief chemist of the Customs laboratory shall review his tests. The Customs tests shall be used in determining the final duties on the merchandise, except that the settlement tests shall be used if, in the opinion of the chief chemist:

(a) The settlement and Customs tests differ by no more than is to be expected between qualified laboratories, and

(b) The use of the settlement test results will not require a different tariff classification or rate of duty than is indicated by the Customs test.

§ 151.55 Deductions for loss during processing.

Deductions for the loss of copper, lead, or zinc content during processing, as authorized by schedule 6, part 1, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), shall be made by the district director in the liquidation of any entry only if the importer has followed the procedures set forth in that headnote. See §§ 19.17–19.25 of this chapter for procedures applicable to bonded smelting and refining warehouses.

Subpart E—Wool and Hair

§ 151.61 Definitions.

The following are general definitions for the purposes of this subpart:

(a) *Clean pound.* "Clean pound" means pound of clean yield as defined in paragraph (b) of this section.

(b) *Clean yield.* "Clean yield" means the absolute clean content (that is, all that portion of the merchandise which consists exclusively of wool or hair free of all vegetable and other foreign material, containing by weight 12 percent of moisture and 1.5 percent of material removable from the wool or hair by extraction with alcohol, and having an ash content of not over 0.5 percent by weight), less an allowance, equal by weight to 0.5 percent of the absolute clean content plus 60 percent of the vegetable matter present, but not exceeding 15 percent by weight of the absolute clean content, for wool or hair that would ordinarily be lost during commercial cleaning operations.

(c) *Sampling unit.* "Sampling unit" means all the similar packages covered by one entry or withdrawal containing wool or hair of the same kind or same general condition and character, produced in the same country, packed in substantially the same manner, and entered as or found to be subject to the same rate of entry.

(d) *General sample.* "General sample" means the composite of the individual portions of wool or hair drawn from a sampling unit.

§ 151.62 Information on invoices.

Invoices of wool or hair subject to duty at a rate per clean pound under schedule 3, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), shall show the following detailed information in addition to other information required:

(a) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(b) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(c) Whether in the fleece, skirted, matchings, or sorted;

(d) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(e) Country of origin, and, if possible, the province, section, or locality of production;

(f) If wool, the type symbol by which it is bought and sold in the country of origin and the grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether U.S. Official Standards or the commercial terms to designate grade in the country of shipment; and

(g) Net weight of each lot of wool or hair covered by the invoice in the condition in which it is shipped, and the shipper's estimate of the clean yield of each lot by weight or by percentage. (Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 151.63 Information on entry summary.

Each entry summary covering wool or hair subject to duty at a rate per clean pound under schedule 3, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), shall show as to each lot of wool or hair covered thereby, in addition to other information required, the total estimated or actual net weight of the wool or hair in its condition as imported, its total estimated clean yield in pounds, and the estimated percentage clean yield. (Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484). **[TD 79-221.]**

§ 151.64 Additional documents.

(a) *Notice of percentage clean yield and grade of wool or hair.* Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, containing the name and address of the importer, shall be filed in duplicate with each entry summary covering wool or hair. **[TDs 75-121, 79-221.]**

(b) *Extra copy of entry summary.* One extra copy of the entry summary covering wool or hair subject to duty at a rate per clean pound shall be filed in addition to the copies otherwise required. **[TD 79-221.]**

§ 151.65 Duties.

Duties on wool or hair subject to duty at a rate per clean pound may be estimated at the time of filing the entry summary on the basis of the clean yield shown on the entry summary if the district director is satisfied that the revenue will be properly protected. Liquidated duties shall be based upon the district director's final determination of clean yield. Estimated and liquidated duties on wool or hair tested for clean yield pursuant to the provisions of § 151.71, and withdrawn for consumption without a change in condition which affects the duties and in a quantity less than an entire sampling unit shall be determined on the basis of an appropriate adjustment of the estimated percentage clean yield shown on the entry summary for the wool or hair included in each of the lots covered by the withdrawal. This adjustment shall be made by increasing or decreasing such estimated percentage clean yield of each lot by the difference between the percentage clean yield of the related sampling unit, as determined by the district director, and the weighted average percentage clean yield for the sampling unit, as computed from the estimated percentages clean yield and net weights shown on the entry summary for the lots included in the sampling unit. **[TD 79-221.]**

§ 151.66 Duty on samples.

Duty shall be assessed and collected on samples taken pursuant to any provision in this subpart, whether taken by the importer or by Customs, unless and exemption or remission is obtained by compliance with an applicable provision of the law or regulations. The duty shall be assessed upon the samples in accordance with their condition at the time of importation, except in the case of merchandise manipulated in warehouse pursuant to section

562, Tariff Act of 1930, as amended (19 U.S.C. 1562). The collection of duty on the samples may be postponed when the importation concerned is not entered for consumption until the withdrawal of the merchandise from which the samples are taken, or until an application for the destruction or abandonment of such merchandise has been accepted pursuant to an appropriate provision of the law or regulations.

§ 151.67 Sampling by importer.

The importer may be permitted after entry to draw samples under Customs supervision in reasonable quantities from the packages of wool or hair designated for examination, provided the bales or bags are properly repacked and repaired by him. Any samples so withdrawn shall be weighed and a record showing the quantities thereof shall be made and filed with the related entry.

§ 151.68 Merchandise to be sampled and tested by Customs.

The following shall be weighed, sampled, and tested for clean yield, unless such sampling or testing is not feasible:

(a) All importation of wool or hair subject to duty at a rate per clean pound, except importations entered directly for manipulation under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), or for manufacture under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311);

(b) All imported wool or hair manipulated under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562) and dutiable after manipulation as wool or hair at a rate per clean pound; and

(c) Such other imported wool or hair as the district director may designate.

§ 151.69 Transfer or exportation of part of sampling unit.

(a) *Transfer of right to withdraw.* When an original sampling unit has been weighed, sampled, and tested in accordance with this subpart and a part of such unit is covered by a transfer of the right to withdraw made pursuant to section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), the percentages clean yield of the part covered by the transfer and of the part not so covered shall be computed on the basis of the original Customs weights and test and the invoice data related to the respective parts.

(b) *Exportation.* When part of such an original sampling unit is exported from continuous Customs custody without having been manipulated as provided for in section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), the percentage clean yield of the part not exported shall be determined, at the discretion of the district director, either on the basis of a new determination by reweighing, resampling, and retesting, or by a computation as described in paragraph (a) of this section, for either the exported or the remaining part.

§ 151.70 Method of sampling by Customs.

A general sample shall be taken from each sampling unit, unless it is not feasible to obtain a representative general sample of the wool or hair in a sampling unit or to test such a sample in accordance with the provisions of § 151.71, in which case the clean yield of the wool or hair in such sampling unit shall be estimated as provided for in § 151.72. At the request of the importer, two general samples may be taken from a sampling unit if the taking and testing of a second general sample is feasible. If two general samples are taken, one general sample shall be held for use in making a second test for clean yield if such a test is requested in accordance with the provisions of § 151.71(c), or if a second test is found desirable by the district director or the chief chemist.

§ 151.71 Laboratory testing for clean yield.

(a) *Test and report by Customs laboratory.* The clean yield of all general samples taken in accordance with § 151.70 shall be determined by test in a Customs laboratory, unless it is found that it is not feasible to test such a sample and obtain a proper finding of percentage clean yield. A report of the percentage clean yield of each general sample as established by the test or a statement of the reason for not testing a general sample shall be forwarded to the district director. If the report is not received by the district director within 1 month after the date of entry, the clean yield shall be estimated in accordance with § 151.72 except that in the case of wool or hair received under an entry for immediate transportation, the estimate of clean yield shall be made if the laboratory report is not received by the district director within 1 month from the date on which the last of the merchandise is received. However, the district director may withhold his finding of clean yield until the laboratory report is received and predicate his finding on that report if so requested in writing by the importer. An estimate of clean yield shall be made pursuant to the provisions of this paragraph only when an adequate quantity of the wool or hair is available for examination.

(b) *Notification to importer.* The district director shall promptly notify the importer by mail on Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, of the percentage clean yield found by him. Where samples of wool or hair have been tested in a Customs Laboratory and the district director has received a copy of the Laboratory Report, Customs Form 6415, a copy of that report shall accompany the notification to the importer. **[TD 75-121.]**

(c) *Importer's request for retest.* If the importer is dissatisfied with the district director's finding of clean yield, he may file with the district director a written request in duplicate for another laboratory test for percentage clean yield. Such request shall be filed within 14 calendar days after the date of mailing of the notice of the district director's finding of clean yield. The request shall be granted if it appears to the district director to be made in good faith and if a second general sample as provided for in § 151.70 is available for testing, or if all packages or, in the opinion of the Commissioner of Customs, an adequate number of the packages represented by the general sample are available and in their original imported condition.

(d) *Retest procedures.* The second test shall be made upon the second general sample, if such a sample is available. If the second general sample is not available, the packages shall be reweighed, resampled, and tested in accordance with the provisions of this section. All costs and expenses of such operations, exclusive of the compensation of Customs officers, shall be borne by the importer, who may be present during such resampling and testing.

(e) *Request for commercial test.* If the importer is dissatisfied with the results of the second laboratory test, or if a second laboratory test is not feasible, the wool or hair may be retested by a commercial laboratory in accordance with § 151.73.

§ 151.72 Estimation of clean yield by nonlaboratory method.

(a) *Estimation by Customs.* Shipments of wool or hair specified in § 151.68 which have not been tested by the Customs laboratory under the provisions of § 151.71 shall be examined by the appropriate Customs officer, who shall estimate and report the percentage clean yield of each lot.

(b) *Notification to importer.* The district director shall promptly notify the importer by mail on Customs Form 6451, Notice of Percentage Clean Yield and Grade of Wool or Hair, of the percentage clean yield estimated by the appropriate Customs officer. **[TD 75-121.]**

(c) *Importer's request for reestimation.* If the importer is dissatisfied with the estimation of clean yield, he may file with the district director a written request in duplicate for a new examination of the wool or hair and a reestimation of its percentage clean yield. Such request shall be granted if it appears to the district director to be made in good faith. The importer shall be given an opportunity to inspect those packages which are in dispute.

(d) *Request for commercial test.* If the importer is dissatisfied with the reestimation of clean yield, he may request a test by a commercial laboratory in accordance with § 151.73.

§ 151.73 Importer's request for commercial laboratory test.

(a) *Conditions for commercial test.* If the importer is dissatisfied with the results of a retest made in accordance with § 151.71(c), or a reestimation of clean yield made in accordance with § 151.72(c), he may request that a commercial test be made to determine the percentage clean yield of the wool or hair.

(b) *Time for filing request.* The importer's request shall be filed in writing with the district director within 14 calendar days after the date of mailing of the notice of the district director's findings based on the retest or reexamination.

(c) *Procedures for commercial test.* The district director shall cause a representative quantity of the wool or hair in dispute to be selected and tested by a commercial method approved by the Commissioner of Customs. The yield, as determined by such commercial test, shall be suitable adjusted to coincide with the definition of clean yield in § 151.61(b). Such test shall be made under the supervision and direction of the district director at an establishment approved by him, and the expense thereof, including the actual expense of travel and subsistence of Customs officers but not their compensation, shall be paid by the importer.

§ 151.74 Retest at district director's request.

If the district director is not satisfied with the results of any test provided for in § 151.71 or § 151.73, he may, within 14 calendar days after receiving the report of the results of such test, proceed to have another test made upon a suitable sample of the wool or hair at the expense of the Government. When the district director is proceeding to have another test made, he shall, within the 14-day period specified in this paragraph, notify the importer by mail of that fact.

§ 151.75 Final determination of clean yield.

The district director shall base his final determination of clean yield upon a consideration of all the tests and examinations made in connection with the wool or hair concerned.

§ 151.76 Grading of wool.

(a) *Examination for grade.* The district director shall cause wool dutiable at a rate per clean pound to be examined for grade. The standards for determining grades of wool shall be those which are established from time to time by the Secretary of Agriculture pursuant to law and which are in effect on the date of importation of the wool, as provided by schedule 3, part 1C, headnote 2, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Notification to importer.* If classification of the wool at the grade or grades determined on the basis of the examination will result in the assessment of duty at a rate higher than the rate provided for wool of the grade stated in the entry, the district director shall promptly notify the importer by mail.

(c) *Importer's request for reexamination.* If the importer is dissatisfied with the district director's findings as to the grade or grades of the wool, he may, within 14 calendar days after the date of mailing of the notice of the district director's findings, file in duplicate a written request for another determination of grade or grades, stating the reason for the request. Notice of the district director's findings on the basis of the reexamination of the wool shall be mailed to the importer.

Subpart F—Cotton

§ 151.81 Definition of staple length.

For the purposes of this subpart, "staple length" means the length of the fibers in a particular quantity of cotton designated in terms expressing the measurement by the inch or fraction thereof of a representative portion of the quantity in accordance with the Official Cotton Standards of the United States for length of staple, as established by the Secretary of Agriculture.

§ 151.82 Information on invoices.

Invoices of cotton provided for in item 300.10, 300.15, or 300.20, Tariff Schedules of the United States (19 U.S.C.

1202), shall show the following detailed information in addition to other required information:

(a) One of the following statements regarding each lot of cotton covered by the invoice:

(1) This is harsh or rough cotton under 3/4 inch in staple length;

(2) The staple length of this cotton is under 1 1/8 inches. (This statement is not to be used if subparagraph (1) of this paragraph is applicable);

(3) The staple length of this cotton is 1 1/8 inches or more and under 1 3/8 inches;

(4) This cotton is harsh or rough cotton (other than cotton of perished staple, grabbots, and cotton pickings), white in color, and has a staple length of 1 5/32 inches or more and under 1 3/8 inches;

(5) The staple length of this cotton is 1 3/8 inches or more and under 1 11/16 inches; or

(6) The staple length of this cotton is 1 11/16 inches or more.

(b) The name of the country of origin, and, if practicable, the name of the province or other subdivision of the country of origin in which the cotton was grown.

(c) The variety of the cotton, such as Karnak, Gisha, Pima, Tanguis, etc. (Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 151.83 Method of sampling.

For determining the staple length of any lot of cotton for any Customs purposes, samples of the lot shall be taken in accordance with commercial practice.

§ 151.84 Determination of staple length.

The district director shall have one or more samples of each sampled bale of cotton stapled by a qualified Customs officer, or a qualified employee of the Department of Agriculture designated by the Commissioner of Customs for the purpose, and shall promptly mail the importer a notice of the results determined.

§ 151.85 Importer's request for redetermination.

If the importer is dissatisfied with the district director's determination, he may file with the district director, within 14 calendar days after the mailing of the notice, a written request in duplicate for a redetermination of the staple length. Each such request shall include a statement of the claimed staple length for the cotton in question and a clear statement of the basis for the claim. The request shall be granted if it appears to the district director to be made in good faith. In making the redetermination of staple length, the district director may obtain an opinion of a board of cotton examiners from the U.S. Department of Agriculture, if he deems such action advisable. All expenses occasioned by any redetermination of staple length, exclusive of the compensation of Customs officers, shall be reimbursed to the Government by the importer.

Subpart G—Fruit Juices

§ 151.91 Brix values of unconcentrated natural fruit juices.

The following values have been determined to be the average Brix values of unconcentrated natural fruit juices in the trade and commerce of the United States, for purposes of the provisions of schedule 1, part 12A, headnote 3, Tariff Schedules of the United States (19 U.S.C. 1202), and will be used in determining the dutiable quantity of imports of concentrated fruit juices, using the procedure set forth in headnote 4 of part 12A: **[TD 74-41.]**

Kind of fruit juice	*Average Brix value (degrees)*
Apple	13.3
Apricot	14.3
Bilberry (Whortleberry, Vaccinium Myrtillium)	13.4
Black currant	15.0
Blackberry	10.0
Black raspberry	11.1
Blueberry	14.1
Boysenberry	10.0
Carob	40.0
Cherry	14.3
Crabapple	15.4
Cranberry	10.5
Date	18.5
Dewberry	10.0
Elderberry	11.0
Fig	18.2
Gooseberry	8.3
Grape (Vitis Vinifera)	18.0
Grape (Slipskin varieties)	16.0
Grapefruit	10.2
Guava	7.7
Lemon	8.9
Lime	10.0
Loganberry	10.5
Mango	17.0
Naranjilla	10.5
Orange	11.8
Papaya	10.2
Passion Fruit	15.3
Peach	11.8
Pear	15.4
Pineapple	14.3
Plum	14.3
Pomegranate	18.2
Prune	18.5
Quince	13.3
Raisin	18.5
Raspberry (Red raspberry)	10.5
Red currant	10.5
Soursop (Guanabana, Annono Muricata)	16.0
Strawberry	8.0
Tamarind	55.0
Tangerine	11.5
Youngberry	10.0

Subpart H—Flat Glass

§ 151.101 Weighing of flat glass.

The net weight of flat glass dutiable on a weight basis under schedule 5, part 3B, Tariff Schedules of the United States (19 U.S.C. 1202), shall be ascertained by the district director in accordance with § 151.102 or § 151.103 whenever he is not satisfied with the accuracy of the weights shown on the invoice or packing list, and in any event from time to time on a spot-check basis.

§ 151.102 Standard method for ascertaining weight.

The standard method for ascertaining the net weight of flat glass in one case of each size and thickness shall be as follows:

(a) In cases weighing not over 500 pounds each: Weigh the entire amount of glass in the case or obtain the gross weight of the case, remove and weigh all coverings, and subtract the weight of the coverings from the gross weight.

(b) In cases weighing over 500 pounds each: Remove and weigh 20 or more sheets aggregating not less than 100 square feet; divide the weight so found by the total area of the sheets weighed to obtain the weight in pounds per square foot; and multiply this by the total area of the sheets contained in the case. If this is not practicable, caliper the edges of at least five sheets chosen from the case at random, using a micrometer caliper, if available; multiply the average thickness in inches by 13 to obtain the weight in pounds per square foot; and multiply this by the total area of the sheets contained in the case. However, the calipering method, when used for glass weighing 28 ounces or less per square foot, is subject to significant inaccuracies and its use with such glass should be avoided.

§ 151.103 Other methods for ascertaining weight.

The district director may exercise his discretion in ascertaining the net weight of flat glass by other methods, based upon the availability of Customs weighing facilities, provided by importers, availability of personnel, and other considerations.

§ 151.104 Final net weight for duty purposes.

The net weight ascertained in accordance with § 151.102 or § 151.103 shall be used as a basis to compute duties when it varies by more than 5 percent from the invoice net weight. The invoice net weight shall be used when the ascertained net weight varies from it by 5 percent or less, or when the district director has elected in accordance with § 151.101 to accept the invoice weight without further ascertainment.

Subpart I—Cigars, Cigarillos, and Tobacco

§ 151.111 Cigars, cigarillos, and tobacco of Cuban origin.

The tobacco National Import Specialist at the port of New York shall have general supervision of the examination of (a) all cigars or cigarillos which may be made or derived in whole or in part of Cuban articles, and (b) all tobacco which may be of Cuban origin. **[TD 81-189.]**

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

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Authority: R.S. 251, as amended, secs. 402, 500, 502, 624, 46 Stat. 708, as amended, 729, as amended, 731, as amended, 759, sec. 2(a), 70 Stat. 943; 19 U.S.C. 66, 1401a, 1402, 1500, 1502, 1624. Subpart B also issued under sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315. Subpart C also issued under sec. 503, 46 Stat. 731, as amended; 19 U.S.C. 1503. Subpart D also issued under gen. hdnote. 12, sch. 4, pt. 1, hdnotes. 4, 5, part 1C, hdnote. 6, Tariff Schedules of the United States; 19 U.S.C. 1202. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 73-175, 38 FR 17477, July 2, 1973, and T.D. 81-7, 46 FR 2597, January 12, 1981, unless otherwise noted.

§ 152.0 Scope.

This part contains regulations pertaining to the tariff classification and appraisement of imported merchandise. Other applicable provisions are contained elsewhere in this chapter, such as in Part 10 for articles conditionally free or subject to a reduced rate of duty, and in Part 159 for relief from duties on articles lost, damaged, etc. **[TD 73-175.]**

Subpart A—General Provisions

§ 152.1 Definitions.

The following are general definitions for the purposes of Part 152:

(a) *Dutiable charges.* "Dutiable charges" means such costs and expenses as are incidental to placing the merchandise in condition, packed ready for shipment to the United States, within the meaning of section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402). Such charges must represent the actual cost and be confined solely to merchandise exported to the United States. Any expenses which enter into the value of the merchandise when sold in the ordinary course of trade for domestic consumption in the country of exportation are not charges but become a part of the value of the merchandise.

(b) *Nondutiable charges.* "Nondutiable charges" means such items of cost and expense as constitute no part of the value of the merchandise when sold in the ordinary course of trade in the country of exportation, and are no part of the expense of placing it in condition, packed ready for shipment to the United States.

(c) *Date of exportation.* "Date of exportation," or the "time of exportation" referred to in section 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a and 1402), means the actual date the merchandise finally leaves the country of exportation for the United States. If no positive evidence is at hand as to the actual date of exportation, the district director shall ascertain or estimate the date of exportation by all reasonable ways and means in his power, and in so doing may consider dates on bills of lading, invoices, and other information available to him.

§ 152.2 Notification to importer of increased duties.

If the district director believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the entered quantity, and the estimated aggregate of the increase in duties on that entry exceeds $15, he shall promptly notify the importer on Customs Form 5561, specifying the nature of the difference on the notice. Liquidation shall be made promptly and shall not be withheld for a period of more than 20 days from the date of mailing of such notice unless in the judgment of the district director there are compelling reasons that would warrant such action.

§ 152.3 Merchandise found not to correspond with invoice description.

When any merchandise not corresponding with the description given in the invoice is found by the examining officer, duties shall be assessed on the merchandise actually found. If the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Subpart B—Classification

§ 152.11 Tariff Schedules of the United States.

Merchandise shall be classified in accordance with the Tariff Schedules of the United States (19 U.S.C. 1202) as interpreted by administrative and judicial rulings.

§ 152.12 Applicable rates of duty.

Rates of duty shall be based on the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

§ 152.13 Commingling of merchandise.

(a) *Notice to importer.* The district director shall give written notice to the importer as promptly as possible after any commingling is discovered.

(b) *Highest rate applicable.* Commingled merchandise shall be assessed with duty at the highest rate or rates applicable to any one kind of merchandise included in the commingling, unless:

(1) The quantity and value of each of the kinds so included can be readily ascertained by the usual method of Customs examination or by one or more of the methods specified in general headnote 7(a), Tariff Schedules of the United States (19 U.S.C. 1202), or

(2) The conditions specified in general headnote 7(b), (c), or (d), Tariff Schedules of the United States (19 U.S.C. 1202), are satisfied.

(c) *Time limit.* To obtain the benefit of general headnote 7(a)(iii), (b), (c), or (d), Tariff Schedules of the United States (19 U.S.C. 1202), the importer shall, within 30 days after the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, take appropriate action as follows:

(1) File with the district director evidence showing performance of the commercial settlement tests specified in general headnote 7(a)(iii), Tariff Schedules of the United States (19 U.S.C. 1202); or

(2) Perform the segregation under Customs supervision as specified in general headnote 7(b), Tariff Schedules of the United States (19 U.S.C. 1202); or

(3) File with the district director documentary proof which will satisfy him that the merchandise is entitled to the lower rate of duty under general headnote 7(c) or (d), Tariff Schedules of the United States (19 U.S.C. 1202).

(d) *Extension of time limit.* The 30-day limit for filing the evidence specified in general headnote 7(a)(iii) or for performing the segregation specified in general headnote 7(b), Tariff Schedules of the United States (19 U.S.C. 1202), may be extended by the district director for additional periods of 30 days each, but not beyond 6 months from the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, if the importer makes written application for each extension and gives satisfactory reasons for its allowance. (Gen. hdnote. 7, Tariff Schedules of the United States; 19 U.S.C. 1202)

§ 152.16 Judicial changes in classification.

The following procedures apply to changes in classification made by decision of either the United States Customs Court or the United States Court of Customs and Patent Appeals, except to the extent otherwise provided in a ruling published in the Customs Bulletin pursuant to § 177.10(a) of this chapter: **[TD 75-186.]**

(a) *Identical merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to all merchandise identical with that passed on by the court which is covered by unliquidated entries, whether for consumption or warehouse.

(b) *Similar merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principles, provided that it has been entered or withdrawn for consumption after 30 days from the date of publication of the court's decision in the Customs Bulletin.

(c) *Higher rate.* If a court decision overruling a protest contains a definite statement that a higher rate than that assessed by the district director was properly chargeable, such higher rate shall be applied to all merchandise, whether identical or similar to that passed on by the court, which is affected by the principles of the court's decision and which is entered or withdrawn for consumption after 30 days from the date of the publication of the court's decision in the Customs Bulletin.

(d) *American manufacturer's petition upheld.* If the court upholds a petition made by an American manufacturer, producer, or wholesaler under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), the principles of the court's decision shall be applicable to all merchandise of that character which is entered or withdrawn for consumption after the date of publication of the court's decision in the Customs Bulletin. The liquidation of entries covering merchandise of that character made after publication of the court's decision shall be suspended in accordance with § 159.57 of this chapter pending any rehearing or review, then liquidated, or, if necessary, reliquidated in accordance with the final judicial decision.

(e) *Other decisions adverse to Government.* Unless the Commissioner of Customs otherwise directs, the principles of any court decision adverse to the Government (except for a decision upholding an American manufacturer's petition as covered in paragraph (d) of this section) shall be applied to unliquidated entries and protested entries which have not been denied in whole or in part and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made. See § 176.31 of this chapter for the treatment of entries which are the subject of a court decision.

§ 152.17 Changes in classification by Congress or by Presidential Proclamation.

When a rate of Customs duty or internal revenue tax imposed upon or by reason of importation is changed by an act of Congress or by a proclamation of the President, the new rate shall be applied in accordance with the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

Subpart C—Appraisement

§ 152.20 Effective date.

The value for appraisement of merchandise exported to the United States before July 1, 1980, or, for articles classified in item 700.60, Tariff Schedules of the United States (19 U.S.C. 1202), before July 1, 1981, will be determined in accordance with this subpart. **[TD 81-7.]**

§ 152.21 Basis of appraisement.

(a) *Merchandise not on final list.* In the case of merchandise which is not specified in the final list (T.D. 54521) published pursuant to section 6(a) of the Customs Simplification Act of 1956, the value for appraisement purposes shall be determined in accordance with section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a).

(b) *Merchandise on final list.* In the case of merchandise which is specified in the final list (T.D. 54521), the value for appraisement purposes shall be determined in accordance with section 402a, Tariff Act of 1930, as redesignated and amended (19 U.S.C. 1402).

(c) *Merchandise on final list in terms of value.* In the case of merchandise which is described on the final list in terms of unit value, the unit value shall be computed in accordance with section 402a, Tariff Act of 1930, as amended, for the purpose of ascertaining whether the merchandise is included on the list. If the value so computed brings the merchandise within the scope of the final list, such merchandise shall be appraised in accordance with section 402a and classified at the rate applicable to such appraised value. If the value so computed places the merchandise outside the scope of the final list, the merchandise shall be appraised in accordance with section 402, Tariff Act of 1930, as amended, and shall be classified at the rate applicable to that appraised value.

§ 152.22 Determination of dutiable charges.

The district director shall determine the amount of any dutiable charges, as defined in § 152.1(a), which are to be included in the appraised value of the merchandise.

§ 152.23 Merchandise imported from intermediate countries.

Merchandise imported from one country, being the growth, production, or manufacture of another country, shall for value purposes (see sections 402, 402a, Tariff Act of 1930, as amended; 19 U.S.C. 1401a, 1402) be treated as an exportation of the country from which it is immediately imported. However, if it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, it shall be treated as an exportation of the country from which it was originally exported. The term "country" is to be regarded for the purposes of this section as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

§ 152.24 American selling price.

(a) *Only for certain merchandise.* American selling price, as defined in section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), is not an alternative method of determining value, but is used only when appraisement under American selling price is specified by statute, or by a Presidential proclamation issued under the authority of section 336, Tariff Act of 1930, as amended (19 U.S.C. 1336). At present, the following classes of merchandise are appraised at the American selling price:

(1) Benzenoid chemicals and products provided for in schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202). (See subpart D of this part.)

(2) Clams in airtight containers provided for in item 114.05, Tariff Schedules of the United States (see schedule 1, part 3E, headnote 1, Tariff Schedules of the United States) (19 U.S.C. 1202).

(3) Certain types of footwear provided for in item 700.60, Tariff Schedules of the United States (see schedule 7, part 1C, headnote 3b, Tariff Schedules of the United States) (19 U.S.C. 1202).

(4) Knit wool gloves and mittens valued at not over $1.75 per dozen pairs provided for in item 704.55, Tariff Schedules of the United States (see schedule 7, part 1C, headnote 4, Tariff Schedules of the United States) (19 U.S.C. 1202).

(b) *Alternative value if no American selling price.* If no American selling price can be found for benzenoid chemicals and products, appraisement shall be made on the basis of the U.S. value in accordance with schedule 4, part 1, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202) (see § 152.31). If no American selling price can be found for the other merchandise listed in paragraphs (a) (2) through (4) of this section, appraisement shall be made in accordance with section 402(a) or 402a(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a(a) or 1402(a)).

(c) *Determination of American selling price of footwear classifiable under item 700.60, Tariff Schedules of the United States.*—(1) *Submission of samples, catalogs, and price lists by domestic producers.* In order to ensure consideration of their merchandise in making a determination regarding the existence or nonexistence of an American selling price, domestic producers of footwear of the same class or kind as that classifiable under item 700.60, Tariff Schedules of the United States (19 U.S.C. 1202), shall furnish the Area Director, New York Seaport Area, with all catalogs and price lists covering such footwear. If any catalogs or price lists furnished to the Area Director have been revised or amended, such revisions or amendments shall be forwarded promptly to the Area Director, New York Seaport Area. At the request of the Area Director, New York Seaport Area, domestic producers shall furnish samples of footwear of the same class or kind as that provided for in item 700.60. Accompanying the catalogs and price lists shall be a certification by the domestic producer, in substantially the following form, verifying that the footwear products covered are freely offered for sale for domestic consumption at the prices shown: **[TD 76-193.]**

Certification

I hereby certify that the enclosed information on production and price of footwear truly and accurately represents a presently produced article, freely offered for sale for domestic consumption to all purchasers at ______________ (place where the greatest number of individual sales takes place), in the ordinary course of trade, in the usual wholesale quantities, without restrictions as to the disposition, use, or resale price of the merchandise by the purchasers.

I further certify that I will submit information regarding any change in the status of this product as it occurs.

____
(signed)

____
(title)

____
(company)

____
(date)

The Area Director may, at his discretion, request the Regional Director (Investigations) to verify by investigation all representations made in regard to any samples, catalogs, and price lists submitted.

(2) *Submission of samples by importers.* Importers of footwear classifiable under item 700.60, Tariff Schedules of the United States, shall furnish the appropriate Customs officer at the port of entry with a sample from the first commercial shipment of each model or style of such footwear imported into the United States. The samples will then be forwarded to the Area Director, New York Seaport Area, for determination of the American selling price.

(3) *Notification of Area Director's determination.* When the Area Director, New York Seaport Area, has determined the American selling price applicable to a particular sample, or has determined that the footwear is not like or similar to a domestic product and therefore not subject to appraisement on the basis of American selling price, he shall notify the importer and domestic producers of the same class or kind of footwear, or their representatives, of this determination. He shall not provide information with respect to the manufacturer, importer, or price of the imported product.

(4) *Examination of samples.* Within 30 days of notification of the Area Director's determination in regard to the applicability of an American selling price, the importer and domestic producers (or their representatives) shall have an opportunity to examine representative samples of the footwear submitted by the importer and domestic producers which were considered by the Area Director in making his determination.

(5) *Request by importer or domestic producers that the Area Director seek internal advice.* The importer or domestic producers may, if they disagree with the Area Director's determination regarding the applicability of an American selling price, request that the Area Director seek internal advice from Headquarters, United States Customs Service, in accordance with the procedures set forth in section 177.11 of this chapter, provided the request by the importer or the domestic producers is received within 30 days of notification of the Area Director's determination. When one party in interest (either the importer or the domestic producers) seeks internal advice from Headquarters, Customs shall notify the other party in interest of that action. (Sec. 336, 46 Stat. 701, as amended, 77A Stat. 332, as amended (19 U.S.C. 1202 (Schedule 7, Part 1A, headnote 3(b), Tariff Schedules of the United States), 1936).)

§ 152.25 Conversion of foreign currency.

When foreign currency must be converted for purposes of appraisement, the instructions in subpart C of Part 159 of this chapter shall be followed.

§ 152.26 Furnishing value information to importer.

The district director shall furnish to importers the latest information as to values in his possession, subject to the following conditions:

(a) *Before appraisement.* Value information shall be given before appraisement only in response to a specific oral or written request by the importer, supported by an adequate reason for the request, or where required by Customs purposes, such as in determining proper estimated duties to be deposited or notification of increased duties in accordance with § 152.2.

(b) *Only for merchandise under district director's jurisdiction.* The information shall be given only in regard to merchandise to be appraised by, or under the jurisdiction of, the district director who receives the request, and only with respect to merchandise for which there is presented evidence of a firm commitment or intent to import such merchandise into the United States.

(c) *Information by importer.* Each request shall be accompanied by the latest information as to the values in question which the importer has or can reasonably obtain.

(d) *Information not binding.* Value information shall be given by the district director only with an understanding and agreement in each case that the information is in no sense an appraisement and is not binding upon the district director's action when he appraises the merchandise.

(e) *No reply required after entry.* The district director shall not be required to reply to a written request for value information after a value for the merchandise has been declared on entry unless he has information indicating a probable appraised value different from such entered value.

Subpart D—Benzenoid Chemicals and Products

§ 152.31 Basis of appraisement.

(a) *American selling price.* Benzenoid chemicals and products which are provided for in schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202), and which are subject to an ad valorem rate of duty shall be appraised at the American selling price, as defined in section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), of any similar competitive article manufactured or produced in the United States.

(b) *U.S. value.* If there is no similar competitive article manufactured or produced in the United States, such merchandise shall be appraised at the U.S. value, as defined in said section 402 or 402a.

(c) *Other.* If there is no similar competitive article produced or manufactured in the United States, and no U.S. value can be ascertained, the merchandise shall be appraised in accordance with section 402(a) or 402a(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a(a) or 1402(a)).

§ 152.32 Unreasonable price not to be used as American selling price.

When the district director is satisfied after investigation that a similar competitive domestic article is offered for sale at an arbitrary and unreasonable price not intended to secure bona fide sales and which does not secure bona fide sales, such price shall not be considered as the American selling price, and the district director shall use all reasonable ways and means to ascertain the price that the manufacturer, producer, or owner would have received, within the meaning of section 402(e) or 402a(g), Tariff Act of 1930, as amended (19 U.S.C. 1401a(e) or 1402(g)).

§ 152.33 Allowances under U.S. value.

Where U.S. value is the basis of appraisement, the allowances permitted under section 402a(e), Tariff Act of 1930, as amended (19 U.S.C. 1402(e)), shall be made on the basis of the factors enumerated therein which actually entered into the price at which such or similar merchandise was being sold in the principal market of the United States at the time of exportation, subject to the limitations as to profits, general expenses, or commission. The allowances permitted under section 402(c), Tariff Act of 1930, as amended (19 U.S.C. 1401a(c)), shall be made on the basis of the factors enumerated therein which usually entered into the price at which imported merchandise of the same class or kind was being sold in the principal market of the United States at the time of exportation.

§ 152.34 Value information to importer.

Importers may be furnished information as to the American selling price or U.S. value of benzenoid chemicals and products in accordance with the provisions of § 152.26.

§ 152.35 Sampling by importer prior to entry.

Subject to the conditions of § 151.5 of this chapter, prior to entry an importer shall be permitted to take samples under proper supervision from his own importation of merchandise dutiable under schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 152.36 Testing conditions.

Tests which are necessary in the appraisement of a benzenoid chemical or product shall be made under conditions approximating as closely as practicable the conditions in which such chemical or product will be actually used in trade or manufacture.

§ 152.37 Lists of competitive and noncompetitive articles.

The Regional Commissioner at New York shall from time to time issue lists of benzenoid chemicals and products which he believes to be competitive and noncompetitive within the contemplation of schedule 4, part 1, headnotes 4 and 5, Tariff Schedules of the United States (19 U.S.C. 1202), and shall add articles thereto or remove articles therefrom as investigation may justify. This list is advisory only and in no manner relieves district directors from the duty of independent appraisement required by law. The Regional Commissioner at New York shall furnish copies of such lists and amendments thereof to the Customs Information Exchange for circulation to Customs officers, and to the public upon request.

§ 152.38 Importer's request for additions to lists.

An importer having an invoice of an article not listed on either the competitive or the noncompetitive list may request the Regional Commissioner at New York to ascertain on which list the article belongs. The importer shall furnish the regional commissioner such relevant information as may be requested, and may withhold formal entry pending the addition of the article to either list. The regional commissioner shall add the articles to the appropriate list and notify the importer of the action taken.

§ 152.39 Two or more competitive articles.

When two or more domestic articles are considered similar to and competitive with an imported article, the American selling price of the domestic article which accomplishes results most nearly equal to those of the imported article shall be taken as the basis for appraisement.

§ 152.40 Adjustment for strength.

When an imported article is of different strength from a similar competitive article manufactured or produced in the United States, the value of the imported article shall be adjusted in relation to the selling price of the domestic article in the proportion which the strength of the imported article bears to that of the domestic article.

§ 152.41 Publication of standards of strength for benzenoid colors, dyes, stains, and related products.

Standards of strength for benzenoid colors, dyes, stains, and related products adopted by the Secretary of the Treasury in accordance with schedule 4, part 1C, headnote 6(a), Tariff Schedules of the United States (19 U.S.C. 1202), shall be published in the Federal Register and in the Customs Bulletin. Such standards heretofore adopted and published under the authority of paragraph 28, Tariff Act of 1922, or paragraph 28, Tariff Act of 1930, shall continue in force until changed or revoked. The following Treasury Decisions contain standards of strength to which U.S. Standard numbers have been assigned and which have been adopted by the Secretary of the Treasury: 39765, 40192, 40257, 40278, 40293, 40298, 40329, 40340, 40361, 40371, 40396, 40420, 40450, 40472, 40525, 40563, 40596, 40623, 40653, 40922, 40947, 41017, 41061, 41089, 41139, 41162, 41224, 41313, 41380, 41513, 41656, 41756, 41932, 42147, 42420, 42687, 42942, 43255, 43704, 44231, 44924, 45319, 45758, 46012, 46487, 46793, 47186, 47544, 47836, 48361, 48541, 48814, 49137, 49353, 49671, 49790, 50001, 50094, 50199, 50333, 50431, 50556, 50691, 50806, 55432.

§ 152.42 Samples of domestic benzenoid colors, dyes, stains, and related products.

(a) *Receipt by Chief Chemist in New York.* The Chief Chemist, Customs Laboratory, 201 Varick Street, New York, NY 10014, is hereby authorized to receive from domestic manufacturers samples of any benzenoid colors, dyes, stains, and related products which they produce and offer. Each sample so received shall be accompanied by specifications setting forth all the information called for in Schedule A (see paragraph (c) of this section). The sample and specifications shall be examined and appropriately filed by the chief chemist. Samples and specifications shall be removed from, replaced, or added to the file as may be necessary. The Chief Chemist shall inform the Regional Commissioner at New York of those products removed from or added to the file.

(b) *Circulation of lists.* Based on the information received from the Chief Chemist, the Regional Commissioner at New York shall from time to time prepare a list identifying each such product by the invoice name and, if different, the trade name as described in items Nos. 1 and 2 of Schedule A. The color index number, item No. 8 of Schedule A, shall appear in the list opposite the name of the product. These lists, which are advisory only, shall be furnished to the Customs Information Exchange for circularization to Customs officers, and to the public upon request. Other information in respect to the specifications shall be treated as exempt from disclosure to the public in accordance with § 103.12(d) of this chapter. [TD 81-168]

(c) *Schedule A specifications.* Each sample submitted in accordance with paragraph (a) of this section shall be accompanied by specifications setting forth all the information called for by Schedule A below. It is essential that the specifications accompanying the sample be set forth in the order and manner specified because the information will be used for comparison with similar data required on importations of foreign benzenoid products:

Schedule A—Benzenoid Colors, Dyes, Stains, and Related Products

1. Invoice name of product________________
2. Trade name of product________________
3. Name of manufacturer________________
4. List other U.S. manufacturers and names under which sold, if known________________
5. List foreign manufacturers and names under which sold, if known________________
6. Percentage of active ingredient________________
7. Schultz number (if none, so state)________________
8. Colour index number (if none, so state)________________
9. U.S. standard number (if none, so state)________________
10. Foreign prototype number (if none or unknown, so state)________________
11. Method of application (state whether acid, basic, direct, direct and developed, mordant, mordant acid, neutral, oil, oil and spirit, printing spirit soluble, vat (soluble), vat (insoluble), or other (describe); and state nature of pre-treatment or after-treatment, if any)________________
12. Material to which applied (name the material or materials for which the color or dye is primarily designed):

A. Fibrous materials:

(1) Natural: Cotton; silk; wool; hemp; flax (linen); Jute; Ramie; straw and grass; sisal; other animal vegetable fibers.

(2) Synthetic (including regenerated and modified cellulose); Acetate Celanese, Acele, Koda); Rayon-Cuprammonium (Bamberg, Matesa); Viscose (Avisco, Delray); Polyamide (Nylon, Perlon); Acrylic (Dynel, Acrilan, Orlon); vinylidene chloride (Saran, Velon); polyethylene (Wynene, Reevon); polyester (Dacron, Terylene); Protein (Azlon, Lanital, Aralac); Glass; other.

B. Nonfibrous materials: Plastics; leather; paper; cellophane; photographic sensitizers, desensitizers, light filters and tinting film; foodstuffs; biological materials; solutions, analytical; oils, fats, and waxes; soap; gasoline; paints, lacquers, stains, and inks; smoke (signals); aluminum; earthenware; other.

13. Chemical classification: Acridine; aminoketone; anthraquinone; azine; axo, mono-; azo, dis-; azo, tris-; azo, tetrakis-; azo, poly-; azo, metal complex; azo, pigment; azoic; color acid; color base; color lake; cyanine; esters of leuco indigoid; esters of leucothioindigoid; esters of leuco anthraquinone; fluorescent; hydroxyketone; indamine; indigoid; indoaniline; indophenol; indoxyl; indoxyl compound; ketol; ketonimine; lactone; leuco compound; methane, diphenylnaphthyl-; methane, triphenyl-; methane, aza-; methine, poly-; nitro; nitroso; oxazine; phthalocyanine; quinoline; quinonoid, sulfur or sulfide, thiazine; thiazole, thionindigoid; xanthene; other.

A. Describe the class or classes and subclass to which the product belongs.

Example (1): Monoazo, Gamma-acid coupling.

Example (2): Xanthen—Basic, oxy-carboxy rhodamines.

B. Give any other information which you consider may be helpful in classifying the products.

Example (1): Insoluble azo dye on the fiber. Mixtures of stabilized diazo amino compounds and coupling components for preparation of the dye on the fiber.

Example (2): Anthraquinone—Dispersion type amino-oxy-anthraquinones.

14. If the product consists of a mixture of two or more active ingredients, the information required by the preceding numbered paragraphs shall be given for each active ingredient in the mixture, together with the proportion of each active ingredient in the mixture.

15. In addition to the above specifications, there shall be furnished a color pattern or card showing typical small specimens of the material to which the product has been applied with an indication of the strength and the method of application. However, in those cases where a suitable color card has been filed previously with the New York Customs Laboratory, or where a color card is not used commercially and it is not practical to submit one, it will be considered satisfactory to furnish a statement setting forth the date the previous pattern or card was filed and its identification number, or the reason why one is not submitted.

§ 152.43 Testing of imported benzenoid colors, dyes, stains, and related products.

Any sample of an imported benzenoid color, dye, stain, or related product sent to the Customs laboratory to determine its comparability with a domestic product shall be accompanied by the Schedule A specifications required by § 141.89 of this chapter. The chief chemist shall search the file of domestic samples and specifications referred to in § 152.42(a) and make any necessary tests. If no comparable domestic product is found, the chief chemist shall prepare and submit his laboratory report accordingly.

Subpart E—Valuation of Merchandise

§ 152.100 Interpretative notes.

The interpretative notes set forth in this subpart have been derived from information contained in the Statement of Administrative Action relating to customs valuation, submitted to and approved by Congress along with the Trade Agreements Act of 1979 (Pub. L. 96-39), and will have the force and effect of regulations issued under this subpart. **[TD 81-7.]**

§ 152.101 Basis of appraisement.

(a) *Effective date*. The value for appraisement of merchandise exported to the United States on or after July 1, 1980, or, for articles classified under item 700.60, Tariff Schedules of the United States (19 U.S.C. 1202), on or after July 1, 1981, will be determined in accordance with section 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by section 201, Trade Agreements Act of 1979.

(b) *Methods*. Imported merchandise will be appraised on the basis, and in the order, of the following:

(1) The transaction value provided for in § 152.103;

(2) The transaction value of identical merchandise provided for in § 152.104, if the transaction value cannot be determined, or can be determined but cannot be used because of the limitations provided for in § 152.103(j);

(3) The transaction value of similar merchandise provided for in § 152.104, if the transaction value of identical merchandise cannot be determined;

(4) The deductive value provided for in § 152.105, if the transaction value of similar merchandise cannot be determined;

(5) The computed value provided for in § 152.106, if the deductive value cannot be determined; or

(6) The value provided for in § 152.107, if the computed value cannot be determined

(c) *Importer's option*. The importer may request the application of the computed value method before the deductive value method. The request must be made at the time the entry summary for the merchandise is filed with the district director (see § 141.0a(b) of this chapter). If the importer makes the request, but the value of the imported merchandise cannot be determined using the computed value method, the merchandise will be appraised using the deductive value method if it is possible to do so. If the deductive value cannot be determined, the appraised value will be determined as provided for in § 152.107.

(d) *Explanation to importer*. Upon receipt of a written request from the importer within 90 days after liquidation, the district director shall provide a reasonable and concise written explanation of how the value of the imported merchandise was determined. The explanation will apply only to the imported merchandise being appraised and will not serve as authority with respect to the valuation of importations of any other merchandise at the same or a different port of entry. This procedure is for informational purposes only, and will not affect or replace the protest or administrative ruling procedures contained in Parts 174 and 177, respectively, of this chapter, or any other Customs procedures. Under this procedure, Customs will not be required to release any information not otherwise subject to disclosure under the Freedom of Information Act, as amended (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or any other statute (see Part 103 of this chapter). **[TD 81-7.]**

§ 152.102 Definitions.

As used in this subpart, the following terms will have the meanings indicated:

(a) *Assist*. (1) "Assist" means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

(i) Materials, components, parts, and similar items incorporated in the imported merchandise.

(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.

(iii) Merchandise consumed in the production of the imported merchandise.

(iv) Engineering, development, artwork, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

(2) No service or work to which subparagraph (1)(iv) of this paragraph applies will be treated as an assist if the service or work—

(i) Is performed by an individual domiciled within the United States;

(ii) Is performed by that individual while acting as an employee or agent of the buyer of the imported merchandise; and

(iii) Is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States.

(3) The following apply in determining the value of assists described in subparagraph (1)(iv) of this paragraph—

(i) The value of an assist that is available in the public domain is the cost of obtaining copies of the assist.

(ii) If the production of an assist occurred in the United States and one or more foreign countries, the value of the assist is the value added outside the United States.

(iii) If the assist was purchased or leased by the buyer from an unrelated person, the value of the assist is the cost of the purchase or of the lease.

(b) *Commission*. "Selling commission" means any commission paid to the seller's agent, who is related to or controlled by, or works for or on behalf of, the manufacturer or the seller.

(c) *Generally accepted accounting principles*. (1) "Generally accepted accounting principles" refers to any generally recognized consensus or substantial authoritative support regarding—

(i) Which economic resources and obligations should be recorded as assets and liabilities;

(ii) Which changes in assets and liabilities should be recorded;

(iii) How the assets and liabilities and changes in them should be measured;

(iv) What information should be disclosed and how it should be disclosed; and

(v) Which financial statements should be prepared.

(2) The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the imported merchandise is sought to be established, and the relevant country for the point in contention.

(3) Information submitted by an importer, buyer, or producer in regard to the appraisement of merchandise may not be rejected by Customs because of the accounting method by which that information was prepared, if the

preparation was in accordance with generally accepted accounting principles.

(d) *Identical merchandise.* "Identical merchandise" means merchandise identical in all respects to, and produced in the same country and by the same person as, the merchandise being appraised. If identical merchandise cannot be found (or for purposes of related buyer and seller transactions (see § 152.103(j)(2)(i)(A)), regardless of whether identical merchandise can be found), merchandise identical in all respects to, and produced in the same country as, but not produced by the same person as, the merchandise being appraised, may be treated as "identical merchandise". "Identical merchandise" does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or sale for export to the United States of the merchandise, and is not an assist because undertaken within the United States.

(e) *Packing costs.* "Packing costs" means the cost of all containers (exclusive of instruments of international traffic) and coverings of whatever nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

(f) *Price actually paid or payable.* "Price actually paid or payable" means the total payment (whether direct or indirect, and exclusive of any charges, costs, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

(g) *Related persons.* "Related persons" means: (1) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

(2) Any officer or director of an organization, and that organization.

(3) An officer or director of an organization and an officer or director of another organization, if each individual also is an officer or director in the other organization.

(4) Partners.

(5) Employer and employee.

(6) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization, and that organization.

(7) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(h) *Same class or kind.* "Merchandise of the same class or kind" means merchandise (including but not limited to, identical merchandise and similar merchandise) within a group or range of merchandise produced by a particular industry or industry sector.

(i) *Similar merchandise.* "Similar merchandise" means merchandise produced in the same country and by the same person as the merchandise being appraised, like the merchandise being appraised in characteristics and component material, and commercially interchangeable with the merchandise being appraised. If similar merchandise cannot be found (or for purposes of related buyer and seller transactions (see § 152.103(j)(2)(i)(A)), regardless of whether similar merchandise can be found), merchandise produced in the same country as, but not produced by the same person as, the merchandise being appraised, like the merchandise being appraised in characteristics and component material, and commercially interchangeable with the merchandise being appraised, may be treated as "similar merchandise". "Similar merchandise" does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise, and is not an assist because undertaken within the United States.

(j) *Sufficient information.* "Sufficient information" means information that establishes the accuracy of:

(1) Any amount—

(i) added under § 152.103(b) to the price actually paid or payable;

(ii) deducted under § 152.105(d) as profit or general expenses or value from further processing, or

(iii) added under § 152.106(b) as profit or general expenses; or

(2) Any difference taken into account under § 152.103(j)(2)(iv); or

(3) Any adjustment made under § 152.104(d).

(k) *Unit price in greatest aggregate quantity.* "Unit price at which merchandise is sold in the greatest aggregate quantity" means the unit price at which the "merchandise concerned" is sold to unrelated persons at the first commercial level after importation (in cases to which § 152.105(c)(1) and (2) apply), or after further processing (in cases to which § 151.105(c)(3) applies), at which the sales take place in a total volume greater than the total volume sold at any other unit price and sufficient to establish the unit price. **[TD 81-7.]**

§ 152.103 Transaction value.

(a) *Price actually paid or payable*—(1) *General.* In determining transaction value, the price actually paid or payable will be considered without regard to its method of derivation. It may be the result of discounts, increases, or negotiations, or may be arrived at by the application of a formula, such as the price in effect on the date of export in the London Commodity Market. The word "payable" refers to a situation in which the price has been agreed upon, but actual payment has not been made at the time of importation. Payment may be made by letters of credit or negotiable instruments and may be made directly or indirectly.

Example 1. In a transaction with foreign Company X, a U.S. firm pays Company X $10,000 for a shipment of meat products, packed ready for shipment to the United States. No selling commission, assist, royalty, or license fee is involved. Company X is not related to the U.S. purchaser and imposes no condition or limitation on the buyer.

The customs value of the imported meat products is $10,000—the transaction value of the imported merchandise.

Example 2. A foreign shipper sold merchandise at $100 per unit to a U.S. importer. Subsequently, the foreign shipper increased its price to $110 per unit. The merchandise was exported after the effective date of the price increase. The invoice price of $100 was the price originally agreed upon and the price the U.S. importer actually paid for the merchandise.

How should the merchandise be appraised?

Actual transaction value of $100 per unit based on the price actually paid or payable.

Example 3. A foreign shipper sells to U.S. wholesalers at one price and to U.S. retailers at a higher price. The shipment undergoing appraisement is a shipment to a U.S. retailer. There are continuing shipments of identical and similar merchandise to U.S. wholesalers.

How should the merchandise be appraised?

Actual transaction value based on the price actually paid or payable by the retailer.

Example 4. Company X in the United States pay $2,000 to Y Toy Factory abroad for a shipment of toys. The $2,000 consists of $1,850 for the toys and $150 for ocean freight and insurance. Y Toy Factory would have charged Company X $2,200 for the toys: however, because Y owed Company X $350, Y charged only $1,850 for the toys. What is the transaction value?

The transaction value of the imported merchandise is $2,200, that is, the sum of the $1,850 plus the $350 indirect payment. Because the transaction value excludes C.I.F. charges, the $150 ocean freight and insurance charge is excluded.

Example 5. A seller offers merchandise at $100, less a 2% discount for cash. A buyer remits $98 cash, taking advantage of the cash discount.

The transaction value is $98, the price actually paid or payable.

(2) *Indirect payment.* An indirect payment would include the settlement by the buyer, in whole or in part, of a debt owed by the seller, or where the buyer receives a price reduction on a current importation as a means of settling a debt owed him by the seller. Activities such as advertising, undertaken by the buyer on his own account, other than those for which an adjustment is provided in § 152.103(b), will not be considered an indirect payment to the seller though they may benefit the seller. The costs of those activities will not be added to the price actually paid or payable in determining the customs value of the imported merchandise.

(3) *Assembled merchandise.* The price actually paid or payable may represent an amount for the assembly of imported merchandise in which the seller has no interest other than as the assembler. The price actually paid or payable in that case will be calculated by the addition of the value of the components and required adjustments to form the basis for the transaction value.

Example 1. The importer previously has supplied an unrelated foreign assembler with fabricated components ready for assembly having a value or cost at the assembler's plant of $1.00 per unit. The importer pays the assembler 50¢ per unit for the assembly. The transaction value for the assembled unit is $1.50.

Example 2. Same facts as Example 1 above except the U.S. importer furnishes to the foreign assembler a tooling assist consisting of a tool acquired by the importer at $1,000. The transportation expenses to the foreign assembler's plant for the tooling assist equal $100. The transaction value for the assembled unit would be $1.50 per unit plus a *pro rata* share of the tooling assist valued at $1,100.

(4) *Rebate.* Any rebate of, or other decrease in, the price actually paid or payable made or otherwise effected between the buyer and seller after the date of importation of the merchandise will be disregarded in determining the transaction value under § 152.103(b).

(5) *Foreign inland freight.* If the price actually paid or payable by the buyer to the seller for the imported merchandise does not include a foreign inland freight charge (an ex-factory price), the foreign inland freight charge will not be added to the price if paid to a unrelated seller. In those situations where the price actually paid or payable for imported merchandise included a charge for foreign inland freight, that charge will be part of the transaction value to the extent it is included in that price.

(b) *Additions to price actually paid or payable.* (1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to—

(i) The packing costs incurred by the buyer with respect to the imported merchandise;

(ii) Any selling commission incurred by the buyer with respect to the imported merchandise;

(iii) The value, apportioned as appropriate, of any assist;

(iv) Any royalty or license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

(v) The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

(2) The price actually paid or payable for imported merchandise will be increased by the amounts attributable to the items (and no others) described in paragraphs (b)(1)(i) through (v) of this section to the extent that each amount is not otherwise included within the price actually paid or payable, and is based on sufficient information. If sufficient information is not available, for any reason, with respect to any amount referred to in this section, the transaction value will be treated as one that cannot be determined.

(3) *Interpretative note.* A royalty is paid on the basis of the price in a sale in the United States of a gallon of a particular product imported by the pound and transformed into a solution after importation. If the royalty is based partially on the imported merchandise and partially on other factors which have nothing to do with the imported merchandise (such as if the imported merchandise is mixed with domestic ingredients and is no longer separately identifiable, or if the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported merchandise and can be readily quantified, an addition to the price actually paid or payable will be made.

(c) *Sufficiency of information.* Additions to the price actually paid or payable will be made only if there is sufficient information to establish the accuracy of the additions and the extent to which they are not included in the price.

(d) *Assist.* If the value of an assist is to be added to the price actually paid or payable, or to be used as a component of computed value, the district director shall determine the value of the assist and apportion that value to the price of the imported merchandise in the following manner:

(1) If the assist consists of materials, components, parts, or similar items incorporated in the imported mer-

chandise, or items consumed in the production of the imported merchandise, acquired by the buyer from an unrelated seller, the value of the assist is the cost of its acquisition. If the assist were produced by the buyer or a person related to the buyer, its value would be the cost of its production. In either case, the value of the assist would include transportation costs to the place of production.

(2) If the assist consists of tools, dies, molds, or similar items used in the production of the imported merchandise, acquired by the buyer from an unrelated seller, the value of the assist is the cost of its acquisition. If the assist were produced by the buyer or a person related to the buyer, its value would be cost of its production. If the assist has been used previously by the buyer, regardless of whether it had been acquired or produced by him, the original cost of acquisition or production would be adjusted downward to reflect its use before its value could be determined. If the assist were leased by the buyer from an unrelated seller, the value of the assist would be the cost of the lease. In either case, the value of the assist would include transportation costs to the place of production. Repairs or modifications to an assist may increase its value.

Example 1. A U.S. importer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the merchandise. The U.S. importer bought the designs from an engineering company in the U.S. for submission to his foreign supplier.

Should the appraised value of the merchandise include the value of the assist?

No, design work undertaken in the U.S. may not be added to the price actually paid or payable.

Example 2. A U.S. importer supplied molds free of charge to the foreign shipper. The molds were necessary to manufacture merchandise for the U.S. importer. The U.S. importer had some of the molds manufactured by a U.S. company and others manufactured in a third country.

Should the appraised value of the merchandise include the value of the molds?

Yes. It is an addition required to be made to transaction value.

(e) *Apportionment.* (1) The apportionment of the value of assists to imported merchandise will be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles. The method of apportionment actually accepted by Customs will depend upon the documentation submitted by the importer. If the entire anticipated production using the assist is for exportation to the United States, the total value may be apportioned over (i) the first shipment, if the importer wishes to pay duty on the entire value at once, (ii) the number of units produced up to the time of the first shipment, or (iii) the entire anticipated production. In addition to these three methods, the importer may request some other method of apportionment in accordance with generally accepted accounting principles. If the anticipated production is only partially for exportation to the United States, or if the assist is used in several countries, the method of apportionment will depend upon the documentation submitted by the importer.

(2) *Interpretative note.* An importer provides the producer with a mold to be used in the production of the imported merchandise and contracts to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request Customs to apportion the value of the mold over 1,000, 4,000, 10,000 units, or any other figure which is in accordance with generally accepted accounting principles.

(f) *Royalties or license fees.* Royalties or license fees for patents covering processes to manufacture the imported merchandise generally will be dutiable. Royalties or license fees paid to third parties for use, in the United States, of copyrights and trademarks related to the imported merchandise generally will be considered selling expenses of the buyer and not dutiable. The dutiable status of royalties or license fees paid by the buyer will be determined in each case and will depend on (1) whether the buyer was required to pay them as a condition of sale of the merchandise for exportation to the United States, and (2) to whom and under what circumstances they were paid. Payments made by the buyer to a third party for the right to distribute or resell the imported merchandise will not be added to the price actually paid or payable for the imported merchandise if the payments are not a condition of the sale of the merchandise for exportation to the United States.

Example. A foreign producer sold merchandise to an unrelated U.S. importer. The U.S. importer pays a royalty to an unrelated third party for the right to manufacture and sell a product made in part from the imported merchandise. The royalty is based on the selling price of the further-manufactured product in the U.S.

Is the license fee part of the appraised value? No. The license fee is not a condition of the sale of the imported merchandise for export to the U.S.

(g) *Proceeds of subsequent resale.* Additions to the price actually paid or payable will be made for the value of any part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrues directly or indirectly to the seller. Dividends or other payments from the buyer to the seller which do not relate directly to the imported merchandise will not be added to the price actually paid or payable. Whether any addition would be made will depend on the facts of the particular case.

Example. A buyer contracts to import a new product. Not knowing whether the product ultimately will sell in the United States, the buyer agrees to pay the seller initially $1 per unit with an additional $1 per unit to be paid upon the sale of each unit in the United States. Assuming the resale price in the United States can be determined in a reasonable period of time, the transaction value of each unit would be $2. Otherwise, the transaction value could not be determined for want of sufficient information.

(h) *Right to reproduce.* Charges for the right to reproduce the imported merchandise in the United States will not be added to the price actually paid or payable. The right to reproduce denotes that an idea or an original work is incorporated in, or reflected by, the imported merchandise, and the right is reserved to reproduce that idea or work in other merchandise by using the imported merchandise. The concept of the right to reproduce relates only to the following classes of merchandise: originals or copies of artistic or scientific works; originals or copies of models and industrial drawings; model machines and prototypes; and plant and animal species.

Example. The importer purchases a painting. By purchasing the painting, the owner possesses the right to resell, lease, or otherwise place it on display. Absent an agreement to the contrary, he does not possess the right to reproduce copies of the painting. Fees paid for the right to reproduce the painting would not be dutiable.

(i) *Exclusions from transaction value.* The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable and from any cost or other item referred to in paragraph (b) of this section:

(1) Any reasonable cost or charge that is incurred for—

(i) The construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or

(ii) The transportation of the merchandise after its importation.

(2) The customs duties and other Federal taxes currently payable on the imported merchandise by reason of its importation, and any Federal excise tax on, or measured by the value of, the merchandise for which vendors in the United States ordinarily are liable.

Example. A foreign shipper sells a piece of equipment to a U.S. buyer. The total contract price for the equipment includes technical assistance in the U.S. The equipment cannot be purchased without the technical assistance, but the contract provides a breakdown of costs.

Should the appraised value include the technical assistance? No, transaction value does not include any reasonable costs for construction, erection, assembly, maintenance of, or technical assistance for, the imported merchandise after its importation into the U.S., the cost of which can be accurately identified as being separate from the price actually paid or payable for the merchandise to which they relate.

(j) *Limitations on use of transaction value.*—(1) *In general.* The transaction value of imported merchandise will be the appraised value only if—

(i) There are no restrictions on the disposition or use of the imported merchandise by the buyer, other than restrictions which are imposed or required by law, limit the geographical area in which the merchandise may be resold, or do not affect substantially the value of the merchandise;

(ii) The sale of, or the price actually paid or payable for, the imported merchandise is not subject to any condition or consideration for which a value cannot be determined;

(iii) No part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made under paragraph (b)(1)(v) of this section; and

(iv) The buyer and seller are not related, or the buyer and seller are related but the transaction value is acceptable.

(2) *Related person transactions.* (i) The transaction value between a related buyer and seller is acceptable if an examination of the circumstances of sale indicates that their relationship did not influence the price actually paid or payable, or if the transaction value of the imported merchandise closely approximates—

(A) The transaction value of identical merchandise; or of similar merchandise, in sales to unrelated buyers in the United States; or

(B) The deductive value or computed value of identical merchandise, or of similar merchandise; and

(C) Each value referred to in paragraph (j)(2)(i)(A) and (B) of this section that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise.

(ii) In applying the values used for comparison, differences with respect to the sales involved will be taken into account if based on sufficient information supplied by the buyer or otherwise available to Customs and if the differences relate to—

(A) Commercial levels;

(B) Quantity levels;

(C) The costs, commissions, values, fees, and proceeds described in paragraph (b) of this section; and

(D) The costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

(k) *Restrictions and conditions on sale.* (1) A restriction placed on the buyer of imported merchandise that does not affect substantially its value will not prevent transaction value from being accepted as the appraised value.

(i) *Interpretative note.* A seller requires a buyer of automobiles not to sell or exhibit them before a fixed date that represents the beginning of a model year.

(2) The transaction value will not be accepted as the appraised value if the sale of, or the price actually paid or payable for, the merchandise is subject to a condition or consideration for which a value cannot be determined.

(i) *Interpretative note 1.* The seller establishes the price of the imported merchandise on condition that the buyer also will buy other merchandise in specified quantities.

(ii) *Interpretative note 2.* The price of the imported merchandise is dependent upon the price or prices at which the buyer of the merchandise sells other merchandise to the seller of the merchandise.

(iii) *Interpretative note 3.* The price of the imported merchandise is established on the basis of a form of payment extraneous to the merchandise, such as where the merchandise is to be further processed by the buyer, and has been provided by the seller on condition that he will receive a specified quantity of the finished merchandise.

(l) *Related buyer and seller.*—(1) *Validation of transaction.* The district director shall not disregard a transaction value solely because the buyer and seller are related. There will be related person transactions in which validation of the transaction value using the procedures contained in § 152.103(j)(2), may not be necessary.

(i) *Interpretative note 1.* Customs may have previously examined the relationship or may already have sufficient detailed information concerning the buyer and seller to be satisfied that the relationship did not influence the price actually paid or payable. In such case, if Customs has no doubts about the acceptability of the price, the price will be accepted without requesting further information from the importer. If Customs does have doubts about the acceptability of the price and is unable to accept the transaction value without further inquiry, the importer will be given an opportunity to supply such further detailed information as may be necessary to enable Customs to examine the circumstances of the sale. In this context, Customs will examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at in order to determine whether the relationship influenced the price.

(ii) *Interpretative note 2.* If it is shown that the buyer and seller, although related, buy from and sell to each other as if they were not related, this will demonstrate that the price has not been influenced by the relationship, and the transaction value will be accepted. If the price has been settled in a manner consistent with the normal pricing practices of the industry in question, or with the way the seller settles prices for sales to buyers who are not related to him, this will demonstrate that the price has not been influenced by the relationship.

(iii) *Interpretative note 3.* If it is shown that the price is adequate to ensure recovery of all costs plus a profit which is equivalent to the firm's overall profit realized over a representative period of time (e.g., on an annual basis), in sales of merchandise of the same class or kind, this would demonstrate that the price has not been influenced.

Example. A foreign seller sells merchandise to a related U.S. importer. The foreign seller does not sell identical merchandise or similar merchandise to any unrelated parties. The transaction between the foreign seller and the U.S. importer is determined by Customs to be unaffected by the relationship.

How should the merchandise be appraised?

Transaction value based on the price actually paid or payable. A transaction value between a related buyer and seller is acceptable if the relationship did not affect the price actually paid or payable. This is so even if similar merchandise is being sold at a higher price, which includes a higher percentage for profit and general expenses.

(2) *Test values.* (i) The importer or the buyer may demonstrate that the transaction value in a related person transaction is acceptable by showing that the value "closely approximates" any one of the test values provided in § 152.103(j)(2)(i). The factors that will be examined to determine if the transaction value closely approximates a test value include:

(A) The nature of the imported merchandise and the industry,

(B) The season in which the merchandise is imported,

(C) Whether the difference in value is commercially significant, and

(D) Whether the difference in value is attributable to internal transport costs in the country of exportation.

(ii) Because these factors may vary, Customs will not be able to apply a uniform standard, such as a fixed percentage, in each case. A small difference in value in a case involving one type of imported merchandise may be unacceptable, although a large difference in a case involving another type may be acceptable, in determining if the transaction value closely approximates any of the test values. Customs will be consistent in determining if one value "closely approximates" another value. The same approach will be taken if Customs considers a transaction value that is higher than any of the enumerated test values as will be taken if the transaction value is lower than any of the test values.

Example. In applying any of the test values, if the transaction value in the sale under consideration is rejected because 95 does not closely approximate 100, then a transaction value for the sale of the same merchandise at 105 occurring at or about the same time likewise would have to be rejected. Similarly, if 103 were considered to closely approximate 100, a transaction value of 97 likewise would closely approximate 100.

(iii) If one of the test values provided in § 152.103(j)(2)(i) has been found to be appropriate, the district director shall not seek to determine if the relationship between the buyer and seller influenced the price. If the district director already has sufficient information to be satisfied, without further detailed inquiries, that one of the test values is appropriate, he shall not require the importer to demonstrate that the test value is appropriate.

(m) *Rejection of transaction value.* When Customs has grounds for rejecting the transaction value declared by an importer and that rejection increases the duty liability, the district director shall inform the importer of the grounds for the rejection. The importer will be afforded 20 days to respond in writing to the district director if in disagreement. This procedure will not affect or replace the administrative ruling procedures contained in Part 177 of this chapter, or any other Customs procedures. **[TD 81-7.]**

§ 152.104 Transaction value of identical merchandise and similar merchandise.

(a) *General.* The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value under § 152.103 but adjusted under paragraph (e) of this section) of imported merchandise that is—

(1) With respect to the merchandise being appraised, either identical merchandise, or similar merchandise; and

(2) Exported to the United States at or about the time that the merchandise being appraised is exported to the United States.

(b) *Identical merchandise.* Minor differences in appearance will not preclude otherwise conforming merchandise from being considered "identical". See § 152.102(d).

(c) *Similar merchandise.* The quality of the merchandise, its reputation, and the existence of a trademark will be factors considered to determine whether merchandise is "similar". See § 152.102(i).

(d) *Commercial level and quantity.* Transaction values determined under this section will be based on sales of identical merchandise, or similar merchandise, at the same commercial level and in substantially the same quantity as the sales of the merchandise being appraised. If no such sale is found, sales of identical merchandise, or similar merchandise, at either a different commercial level or in different quantities, or both, will be used, but adjusted to take account of that difference. Any adjustment made under this section will be based on "sufficient information". See section 152.102(j). If in applying this section to any merchandise, two or more transaction values for identical merchandise, or for similar merchandise, are determined, the merchandise will be appraised on the basis of the lower or lowest of those values.

(e) *Adjustments.* (1) Adjustments for identical merchandise, or similar merchandise, because of different commercial levels or quantities, or both, whether leading to an increse or decrease in the value, will be made only on the basis of sufficient information; e.g., valid price lists containing prices referring to different levels or quantities.

(2) *Interpretative note.* If the imported merchandise being valued consists of a shipment of 10 units and the only identical imported merchandise for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to

the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being *bona fide* through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions for transaction value of identical or similar merchandise is not appropriate. [TD 81-7.]

§ 152.105 Deductive value.

(a) *Merchandise concerned.* For the purposes of deductive value, "merchandise concerned" means the merchandise being appraised, identical merchandise, or similar merchandise.

(b) *Merchandise of the same class or kind.* For the purposes of deductive value, "merchandise of the same class or kind" includes merchandise imported from the same country as well as other countries as the merchandise being appraised.

(c) *Prices.* The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (d) of this section) is appropriate depending upon when and in what condition the merchandise concerned is sold in the United States:

(1) If the merchandise concerned is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

(2) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

(3) If the merchandise concerned was not sold in the condition as imported and not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 80th day after the date of such importation. This provision will apply to appraisement of merchandise only if the importer so elects at the time of filing the entry summary.

(d) *Deductions from price.* The price determined under paragraph (c) of this section will be reduced by an amount equal to—

(1) Any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation as the merchandise concerned;

(2) The actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

(3) The usual costs and associated costs of transportation and insurance incurred with respect to shipments of the merchandise concerned from the place of importation to the place of delivery in the United States, if those costs are not included as a general expense under paragraph (d)(1) of this section;

(4) The customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, the merchandise for which vendors in the United States ordinarily are liable; and

(5) But only in the case of price determined under paragraph (c)(3) of this section, the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to the cost of that processing.

(e) *Profit and general expenses; special rules.* (1) The deduction made for profit and general expenses (taken as a whole) will be based upon the importer's profit and general expenses, unless the profit and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind from all countries, in which case the deduction will be based on the usual profit and general expenses reflected in those sales, as determined from sufficient information. Any State or local tax imposed on the importer with respect to the sale of imported merchandise will be treated as a general expense.

(2) In determining deductions for commissions and usual profit and general expenses, sales in the United States of the narrowest group or range of imported merchandise of the same class or kind, including the merchandise being appraised, for which sufficient information can be provided, will be examined.

(f) *Packing costs.* The price determined under paragraph (c) of this section will be increased, but only to the extent that the costs are not otherwise included, by an amount equal to the packing costs incurred by the importer or the buyer with respect to the merchandise concerned.

(g) *Assists.* For purposes of determining deductive value, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned will be disregarded.

(h) *Unit price in greatest aggregate quantity.* The unit price will be established after a sufficient number of units have been sold to an unrelated person. The unit price to be used when the units have been sold in different quantities will be that at which the total volume sold is greater than the total volume sold at any other unit price.

(1) *Interpretative note 1.* Merchandise is sold to an unrelated person from a price list which grants favorable unit prices for purchases made in larger quantities:

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	$100	10 sales of 5 units 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
Over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is $90.

(2) *Interpretative note 2.* Two sales to unrelated persons occur; in the first sale, 500 units are sold at a price of $95 each; in the second sale, 400 units are sold at a price of $90 each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is $95.

(3) *Interpretative note 3.* Various quantities are sold to unrelated persons at various prices:

(a) *Sales*

Sale quantity	Unit price
40 units	$100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) *Totals*

Total quantity sold	Unit price
65	$90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is $90.

(i) *Further processing.*—(1) *Quantified data.* If merchandise has undergone further processing after its importation into the United States and the importer elects the method specified in paragraph (c)(3) of this section, deductions made for the value added by that processing will be based on objective and quantifiable data relating to the cost of the work performed. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis for the deduction. That deduction also will reflect amounts for spoilage, waste, or scrap derived from the further processing.

(2) *Loss of identity.* If the imported merchandise loses its identity as a result of further processing, the method specified in paragraph (c)(3) of this section will not be applicable unless the value added by the processing can be determined accurately without unreasonable difficulty for either importers or Customs. If the imported merchandise maintains its identity but forms a minor element of the merchandise sold in the United States, the use of paragraph (c)(3) of this section will be unjustified. The district director shall review each case involving these issues on its merits.

Example. A foreign shipper sells merchandise to a related U.S. importer. The foreign shipper does not sell to any unrelated person. The transaction between the foreign shipper and the U.S. importer is determined to have been affected by the relationship. There is no identical or similar merchandise from the same country of production. The U.S. importer further processes the product and sells the finished product to an unrelated buyer in the U.S. within 180 days of the date of importation. No assists from the unrelated U.S. buyer are involved, and the type of processing involved can be accurately costed.

How should the merchandise be appraised?

The merchandise should be appraised under deductive value with allowances for profit and general expenses, freight and insurance, duties and taxes, and the cost of processing. **[TD 81-7.]**

§ 152.106 Computed value.

(a) *Elements.* The computed value of imported merchandise is the sum of—

(1) The cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise;

(2) An amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by the producers in the country of exportation for export to the United States;

(3) Any assist, if its value is not included under paragraph (a)(1) or (2) of this section; and

(4) The packing costs.

(b) *Special rules.* (1) The cost or value of materials under paragraph (a)(1) of this section will not include the amount of any internal tax imposed by the country of exportation that is directly applicable to the materials or their disposition if the tax is remitted or refunded upon the exportation of the merchandise in the production of which the materials were used.

(2) The amount for profit and general expenses under paragraph (a)(2) of this section will be based upon the producer's profit and general expenses, unless the producer's profit and general expenses are inconsistent with those usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States. In that case, the amount under paragraph (a)(2) of this section will be based on the usual profit and general expenses of such producers in those sales, as determined from "sufficient information". See § 152.102(j).

(c) *Profit and general expenses.* The amount for profit and general expenses will be taken as a whole. If the producer's profit figure is low and general expenses high, those figures taken together nevertheless may be consistent with those usually reflected in sales of imported merchandise of the same class or kind.

(1) *Interpretative note 1.* A product is introduced into the United States, and the producer accepts either no profit or a low profit to offset the high general expenses required to introduce the product into this market. If the producer can demonstrate that there is a low profit on sales of the imported merchandise because of peculiar commercial circumstances, the actual profit figures will be accepted provided the producer has valid commercial reasons to justify them and his pricing policy reflects the usual pricing policies in the industry.

(2) *Interpretative note 2.* Producers have been forced to lower prices temporarily because of an unforseeable drop in demand, or they sell merchandise to complement a range of merchandise being produced in the United States and accept a low profit to maintain competitiveness. If the producer's own figures for profit and general

expenses are not consistent with those usually reflected in sales of merchandise of the same class or kind as the merchandise being valued which are made in the country of exportation for export to the United States, the amount for profit and general expenses will be based upon reliable and quantifiable information other than that supplied by or on behalf of the producer of the merchandise.

(d) *Assists and packing costs.* Computed value also will include an amount equal to the apportioned value of any assists used in the production of the imported merchandise and the packing costs for the imported merchandise. The value of any engineering, development, artwork, design work, and plans and sketches undertaken in the United States will be included in computed value only to the extent that their value has been charged to the producer. Depending on the producer's method of accounting, the value of assists may be included (duplicated) in the producer's cost of materials, fabrication, and other processing, or in the general expenses. If duplication occurs, a separate amount for the value of the assists will not be added to the other elements as it is not intended that any component of computed value be included twice.

(e) *Merchandise of same class or kind.* Sales for export to the United States of the narrowest group or range of imported merchandise, including the merchandise being appraised, will be examined to determine usual profit and general expenses. For the purpose of computed value, merchandise of the same class or kind must be from the same country as the merchandise being appraised.

Example. A foreign shipper sells merchandise to a related U.S. importer. The foreign shipper does not sell to any unrelated persons. The transaction between the foreign shipper and the U.S. importer is determined to have been affected by the relationship. There is no identical or similar merchandise from the same country of production. The U.S. importer further processes the product and sells the finished product to an unrelated buyer in the U.S. within 180 days of the date of importation. No assists from the unrelated U.S. buyer are involved, and the type of processing involved can be accurately costed. The U.S. importer has requested that the shipment be appraised under computed value. The profit and general expenses figure for the same class or kind of merchandise in the country of exportation for export to the U.S. is known.

How should the merchandise be appraised?

The merchandise should be appraised under computed value, using the company's profit and general expenses if not inconsistent with those usually reflected in sales of merchandise of the same class or kind.

(f) *Availability of information.* (1) It will be presumed that the computed value of the imported merchandise cannot be determined if—

(i) The importer is unable to provide required computed value information within a reasonable time, and/or

(ii) The foreign producer refuses to provide, or is legally prevented from providing, that information.

(2) If information other than that supplied by or on behalf of the producer is used to determine computed value, the district director shall inform the importer, upon written request, of

(i) The source of the information,

(ii) The data used, and

(iii) The calculation based upon the specified data if not contrary to domestic law regarding disclosure of information. See also § 152.101(d).

§ 152.107 Value if other values cannot be determined or used.

(a) *Reasonable adjustments.* If the value of imported merchandise cannot be determined or otherwise used for the purposes of this subpart, the imported merchandise will be appraised on the basis of a value derived from the methods set forth in §§ 152.103 through 152.106, reasonably adjusted to the extent necessary to arrive at a value. Only information available in the United States will be used.

(b) *Identical merchandise or similar merchandise.* The requirement that identical merchandise, or similar merchandise, should be exported at or about the same time of exportation as the merchandise being appraised may be interpreted flexibly. Identical merchandise, or similar merchandise, produced in any country other than the country of exportation or production of the merchandise being appraised may be the basis for customs valuation. Customs values of identical merchandise, or similar merchandise, already determined on the basis of deductive value or computed value may be used.

(c) *Deductive value.* The "90 days" requirement for the sale of merchandise referred to in § 152.105(c) may be administered flexibly. **[TD 81-7.]**

§ 152.108 Unacceptable bases of appraisement.

For the purposes of this subpart, imported merchandise may not be appraised on the basis of—

(1) The selling price in the United States of merchandise produced in the United States;

(2) A system that provides for the appraisement of imported merchandise at the higher of two alternative values;

(3) The price of merchandise in the domestic market of the country of exportation;

(4) A cost of production, other than a value determined under § 152.106 for merchandise that is identical merchandise, or similar merchandise, to the merchandise being appraised;

(5) The price of merchandise for export to a country other than the United States;

(6) Minimum values for appraisement;

(7) Arbitrary or fictitious values.

[R.S. 251, 46 Stat. 759, Title II, Pub. L. 96-39, 93 Stat. 194 (19 U.S.C. 66, 402, 1624)] **[TD 81-7.]**

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

Sec.

158.0 Scope.

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158.44 Disposition of abandoned merchandise.
158.45 Exportation of merchandise.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart C also issued under sec. 563, 46 Stat. 746, as amended; 19 U.S.C. 1563, unless otherwise noted.

Source: T.D. 72-258, 37 FR 20171, Sept. 27, 1972, unless otherwise noted.

§ 158.0 Scope.

This part sets forth general rules for granting relief from duties on merchandise which is lost, damaged, abandoned, or exported. **[TD 72-258.]**

Subpart A—Lost or Missing Packages and Deficiencies in Contents of Packages

§ 158.1 Definition of "permitted" merchandise.

For the purpose of this subpart, merchandise is "permitted" when Customs authorizes the carrier bringing the shipment to the port to make delivery to the consignee or the next carrier and:

(a) These parties in interest, or their agents, make a joint determination of the quantities being delivered, or,

(b) The carrier bringing the shipment to the port, at its option, independently declares the quantities available for delivery by filing with the district director, no later than the close of business on the next working day after a determination of quantities is made, a signed statement that:

(1) An independent determination of quantities of merchandise available for delivery has been made, with the date of the determination shown;

(2) At least 4 days have elapsed since the consignee or his agent was notified that Customs has authorized delivery; and,

(3) The merchandise was and is available for delivery.

§ 158.2 Shortage in packages released under immediate delivery or entry.

An importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and manifested number of packages in a shipment "permitted" and delivered to him or deposited in a bonded warehouse under the immediate delivery procedure in section 142.21 of, or under the entry documentation in section 142.3(a), if he files with the entry summary a Customs Form 5931 in triplicate. The Customs Form 5931 shall be executed by both the importer and the importing carrier or bonded carrier, as appropriate, and shall contain a declaration by the carrier that the missing packages were not available for delivery within the provisions of section 448(a), Tariff Act of 1930, as amended (19 U.S.C. 1448(a)). **[TDs 73-175, 79-221.]**

§ 158.3 Allowance for lost or missing packages included in an entry summary.

Allowance shall be made in the assessment of duties for lost or missing packages of merchandise included in an entry summary whenever it is established to the satisfaction of the district director before the liquidation of the entry summary becomes final that the merchandise claimed to be lost or missing was not "permitted." A claim for such allowance shall be made on Customs Form 5931, in triplicate, executed by the importer and the importing carrier or bonded carrier, as appropriate. When the importing or bonded carrier refuses to execute the Customs Form 5931, a claim may be allowed if the importer properly executes the Customs Form 5931 and attaches copies of the dock receipt or other document evidencing nonreceipt of the lost or missing packages.

§ 158.4 Liability of carrier for lost or missing packages.

Upon a joint determination or independent determination of quantity as set forth in § 158.1 (a) or (b) resulting in the merchandise being "permitted," the carrier shall be responsible only for any discrepancy between the manifested quantity and the "permitted" quantity. In the case of an importing carrier, when there is a difference between the quantity shown on the inward foreign manifest and the quantity "permitted," liquidated damages or duties shall be assessed under the provisions of the carrier's bond or under the provisions of section 448, Tariff Act of 1930, as amended (19 U.S.C. 1448), unless the carrier corrects his manifest (see § 4.12 of this chapter). In the case of a bonded carrier, liquidated damages for lost or missing merchandise shall be assessed in accordance with § 18.8 of this chapter.

§ 158.5 Deficiencies in contents of packages—general.

An allowance shall be made in the assessment of duties for deficiencies in the contents of packages when, before the liquidation of the entry becomes final, the importer files:

(a) In the case of a concealed shortage, a Customs Form 5931, in triplicate, executed by the importer alone, and the district director satisfies himself as to the validity of the claim; or,

(b) In the case of an unconcealed shortage, a Customs Form 5931, in triplicate, executed by both the importer and the importing or bonded carrier, as appropriate.

§ 158.6 Deficiencies in contents of examination packages.

Allowance for deficiency in the contents of any examination package reported to the district director by a Customs officer shall be made in the liquidation of the entry. No Customs officer except one making an examination contemplated by section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), shall report a supposed deficiency to the district director unless it is established to the satisfaction of the reporting officer that the merchandise was not imported. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

§ 158.7 Allowance for reduction or loss of merchandise by a natural force or by leakage.

Merchandise subject to ad valorem, specific, or compound rates of duty found at the time of importation to be reduced or diminished by a natural force, such as evaporation, or by leakage, shall be appraised in its condition as imported, with an allowance made in the value, weight, quantity, or measure to the extent of the reduction or loss, except when forbidden by law or regulation. **[TD 78-448]**

Subpart B—Damaged or Defective Merchandise

§ 158.11 Merchandise completely worthless at time of importation.

(a) *Nonperishable merchandise.* When a shipment of nonperishable merchandise, or any portion thereof which shall have been segregated from the remainder of the shipment under Customs supervision at the expense of the importer, is found by the district director to be entirely without commercial value at the time of importation by reason of damage or deterioration, an allowance in duties on such merchandise on the ground of nonimportation shall be made in the liquidation of the entry.

(b) *Perishable merchandise.* In the case of perishable merchandise, an allowance in duties may be made under the following conditions:

(1) An application for such allowance shall be filed with the district director on Customs Form 4315 in duplicate, within 96 hours after the unlading of the merchandise and before any of the shipment involved has been removed from the pier (or other area permitted under § 142.2(b)(2) of this chapter) pursuant to the entry permit. **[TD 76-220.]**

(2) Should an application filed in accordance with subparagraph (1) of this paragraph be withdrawn, the merchandise involved shall thereafter be released upon presentation of an appropriate permit.

(3) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is found by the district director to be entirely without commercial value by reason of damage or deterioration. (Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

§ 158.12 Merchandise partially damaged at time of importation.

(a) *Allowance in value.* Merchandise which is subject to ad valorem or compound duties and found by the district director to be partially damaged at the time of importation shall be appraised in its condition as imported, with an allowance made in the value to the extent of the damage. However, no allowance shall be made when forbidden by law or regulation; for example, schedule 6, part 2, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), provides that no allowance or reduction of duties for partial damage or loss in consequence of discoloration or rust occurring before importation shall be made upon iron or steel or upon any article of iron or steel.

(b) *No allowance in specific duties.* In the case of merchandise subject to specific or compound duties and found to be partially damaged at the time of importation, no allowance may be made in the specific duties or in the weight, quantity, or measure (except that an allowance for any excessive moisture or other impurities may be made in accordance with § 158.13). However, any part of the shipment which is totally worthless and can be segregated from the rest of the shipment may be treated as a nonimportation in accordance with § 158.11. (Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

§ 158.13 Excessive moisture and other impurities.

(a) *Application by importer.* An application for an allowance in duties under section 507, Tariff Act of 1930 (19 U.S.C. 1507), for excessive moisture or other impurities not usually found in or upon such or similar merchandise shall be made by the importer on Customs Form 4315. The application shall be filed with the district director within 10 days after the report of weight or gauge has been received by the district director or within 10 days after the date upon which the entry or a related document was endorsed to show that invoice weight or gauge has been accepted by the Customs inspector or other Customs officer.

(b) *Allowance by district director.* If the district director is satisfied after any necessary investigation that the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, he shall make allowance for the amount thereof in the liquidation of the entry.

(c) *Limitations on allowance.* Nonallowance under this section shall be made when forbidden by law or regulation; for example, schedule 1, part 6B, headnote 2, Tariff Schedules of the United States (19 U.S.C. 1202), provides that no allowance in weight shall be made for dirt or other impurities in seed of any kind provided for in that subpart. (Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

§ 158.14 Perishable merchandise condemned.

(a) *Application by importer.* When fruit or other perishable merchandise has been condemned by health officers or other legally constituted authorities within 10 days after landing, an importer who desires allowance in duties under section 506(2), Tariff Act of 1930, as amended (19 U.S.C. 1506(2)), shall within 5 days after such condemnation file with the district director written notice of the condemnation. The date of landing in the case of merchandise forwarded under an entry for immediate transportation is the date of arrival at the port of destination.

(b) *Allowance in duties.* If the district director is satisfied after any necessary investigation that the claim is valid, allowance in duties shall be made in the liquidation of the entry. Such allowance shall be limited to perishable goods condemned by the health officers or authorities in the original package, unless segregation of the merchandise was under constant Customs supervision at the importer's expense. (Sec. 506(2), 46 Stat. 732, as amended; 19 U.S.C. 1506(2))

Subpart C—Casualty, Loss, or Theft While in Customs Custody

§ 158.21 Allowance in duties for casualty, loss, or theft while in Customs custody.

Section 563(a), Tariff Act of 1930, as amended (19 U.S.C. 1563(a)), provides for allowance in duties upon satisfactory proof of the loss or theft of any merchandise while in the public stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the public stores, or while in transportation under bond, or while in Customs custody although not in bond, or while within the limits of any port of entry and before having been landed under Customs supervision. Such allowance is subject to the conditions set forth in this subpart.

§ 158.21a Time period.

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

§ 158.22 Not applicable when allowances made under other provisions.

The procedures in this subpart do not apply in cases where allowances in duties are made under Subpart A or Subpart B of this part, or § 18.6 of this chapter.

§ 158.23 Filing of application and evidence by importer.

Within 30 days from the date of his discovery of the loss, theft, injury, or destruction, the importer shall file an application in duplicate on Customs Form 4315, and within 90 days from the date of discovery shall file any evidence required by § 158.26 or § 158.27.

§ 158.24 Place of filing.

The application and evidence shall be filed with the district director at the port where the loss, theft, injury, or destruction occurred. In the case of total loss of merchandise by fire or other casualty while in transportation under bond, the application and evidence shall be filed with the district director at the port at which the transportation entry was made. In the case of partial destruction of or injury to such merchandise, the application and evidence shall be filed with the district director at the port of destination, except that if the merchandise is returned to the port at which the transportation entry was made, the application shall be filed at that port.

§ 158.25 Partial destruction or injury.

In the case of partial destruction or injury, no application shall be entertained unless the district director shall have had an opportunity to examine the merchandise or the remainder thereof for the purpose of fixing the percentage of injury or destruction. Whether the duty involved is ad valorem, specific, or compound, the percentage of injury for the purpose of the allowance shall be determined by comparing the market value of comparable sound merchandise with the net salvage value of the injured merchandise computed on the basis of the market value of comparable injured merchandise, such comparison to be made as of the time and place of examination.

§ 158.26 Loss or theft in public stores.

In the case of alleged loss or theft while the merchandise is in the public stores, there shall be filed a declaration of the importer, owner, or ultimate consignee that he did not receive the merchandise and that to the best of his knowledge and belief it was lost or stolen as alleged in the application. If the alleged loss or theft consisted of only a part of an examination package and was discovered after the release of the package from Customs custody, the following evidence shall be submitted:

(a) A declaration of each cartman, lighterman, or other carrier handling the package between the public stores and the place of delivery, setting forth the condition of the package at the time of receipt and delivery by him and whether or not there was an abstraction of the merchandise while the package was in his possession.

(b) A declaration of the person who first received the package for the importer, owner, or ultimate consignee as to whether or not he examined the package at the time of receipt, and, if so, as to its condition at that time.

(c) A declaration of the person who opened the package after release from Customs custody that the alleged missing merchandise was not found by him in the package or elsewhere.

§ 158.27 Accidental fire or other casualty.

In the case of injury or destruction by accidental fire or other casualty, the following evidence shall be submitted:

(a) A declaration of the master of the vessel, the conductor or driver of the vehicle, the proprietor of the warehouse, or other person (except a Customs officer) having charge of the merchandise at the time of casualty, stating:

(1) The time, place, and nature of such casualty;

(2) That the merchandise was on board the vessel or vehicle, in the warehouse, or otherwise in his charge, as the case may be, at the time of the casualty; and

(3) That it was totally destroyed and there is no probability of recovering or saving any part thereof, or that it was injured as the result of the casualty.

(b) The bill of lading, the entry, the entry summary (where appropriate), and the invoice covering the merchandise, or certified copies of the foregoing, unless such documents are already in the possession of the district director at the port where the claim is filed.

(c) A copy of the insurance appraiser's report, if any.

§ 158.28 Waiver of evidence.

The district director may waive the production of any of the evidence required by this subpart if the validity of the claim is otherwise established to his satisfaction.

§ 158.29 Decision by district director.

When the application and evidence have been received and examined by the district director, he shall determine whether the desired abatement or refund of duty shall be made and notify the importer of his decision.

§ 158.30 Review of district director's decision.

(a) *Filing of petition.* The importer may file with the district director a petition addressed to the Commissioner of Customs for a review of the district director's decision. Such petition shall be filed in duplicate within 30 days from the date of the notice of the district director's decision, shall completely identify the case, and shall set forth in detail the objections to the district director's decision.

(b) *Decision by Commissioner.* When the petition has been filed, the district director shall promptly transmit both copies thereof and the entire file to the Commissioner, together with a full statement of his views. When the Commissioner's decision is received, the district director shall proceed in conformity therewith.

Subpart D—Destroyed, Abandoned, or Exported Merchandise

§ 158.41 Destruction of prohibited merchandise.

Merchandise regularly entered or withdrawn for consumption in good faith and denied admission into the United States by any Government agency after its release from Customs custody, pursuant to a law or regulation in force on the date of entry or withdrawal for consumption, may be destroyed under Government supervision. In such case, the destroyed merchandise is exempt from duty and any duties collected thereon shall be refunded. In lieu of destruction, the merchandise may be exported under Customs supervision in accordance with § 158.45(c). (Sec. 558(a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a))

§ 158.42 Abandonment by importer within 30 days after entry.

Allowance in duties for merchandise abandoned to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506(1)), shall be subject to the following conditions:

(a) *Minimum quantity to be abandoned.* The merchandise being abandoned shall represent 5 percent or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the merchandise being abandoned appears.

(b) *Application within 30 days.* The importer shall file written notice of abandonment with the district director at the port where the entry was filed within 30 days after the date of entry, or, in the case of examination packages, within 30 days after release, whether or not delivery is taken by the importer immediately after entry or release as the case may be.

(c) *Delivery of merchandise.* Within the 30-day period set forth in paragraph (b) of this section, the importer shall deliver the abandoned merchandise to such place as the district director specifies, unless the district director is satisfied that the merchandise is so far destroyed as to be nondeliverable.

(d) *Identification of merchandise.* The importer shall identify the abandoned merchandise with that described in the invoice used in making entry to the satisfaction of the district director, who shall make such examination as may be necessary to verify such identification.

(e) *Segregation and repacking.* When repacking is necessary to segregate the abandoned merchandise from the remainder of the shipment, such repacking shall be done at the expense of the importer and under Customs supervision. (Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

§ 158.43 Abandonment or destruction of merchandise in bond.

Allowance in duties for merchandise entered under bond destroyed under section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), or for merchandise in bonded warehouse abandoned to the Government under section 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1563(b)), shall be subject to the following conditions:

(a) *Application by importer.* The importer shall file an application for abandonment or destruction of merchandise in bond with the district director on Customs From 3499, with the title modified to read "Application and Permit to Abandon (or Destroy) Goods in Bond." When an application is for permission to destroy, the proposed method of destruction shall be stated in the application and be subject to the approval of the district director.

(b) *Concurrence of warehouse proprietor.* An application to abandon or destroy warehoused merchandise shall not be approved unless concurred in by the warehouse proprietor.

(c) *Abandonment.* (1) *Costs.* When in the opinion of the district director the abandonment of merchandise under section 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1563(b)), will involve any expense or cost to the Government, or if the merchandise is worthless or unsalable, or cannot be sold for a sum sufficient to pay the expenses of sale, such abandonment shall not be permitted unless the importer deposits a sum which in the opinion of the district director will be sufficient to save the Government harmless from any expense or cost resulting from such abandonment. The sum so advanced shall be placed in a special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining shall be refunded to the importer. However, the applicant may elect to destroy such merchandise under Customs supervision pursuant to the provisions of section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)).

(2) *Time period.*— The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation. **[TD 79-221.]**

(d) *Destruction.* (1) *Costs.* Destruction of merchandise under section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), shall be at the expense of the importer.

(2) *Time period.*— The importer may request destruction of his warehoused merchandise within 5 years from the date of importation. **[TD 79-221.]**

(e) *Action by district director.* When the conditions set forth in paragraphs (a) through (d) of this section are met, the district director may grant applications and make an allowance in duties for the merchandise abandoned or destroyed. In any case where doubt exists, the matter shall be referred to the Commissioner of Customs. (Secs. 557, 563, 46 Stat. 744, as amended, 746, as amended; 19 U.S.C. 1557, 1563)

§ 158.44 Disposition of abandoned merchandise.

(a) *General conditions.* The disposition of merchandise abandoned to the Government pursuant to section 158.42 or 158.43, and not retained for official use, shall be governed by the regulations of the General Services Administration applicable to the United States Custom Service.

(b) *Sale of merchandise.* If the merchandise is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 127 of this chapter, unless it is worthless or it appears probable that the expenses of sale will exceed the proceeds. If the merchandise is sold, no part of the proceeds shall be returned to the importer. **[TD 77-12.]**

(c) *Disposition of worthless merchandise.* If the merchandise or any part thereof is worthless or it appears probable that the expenses of its sale will exceed the proceeds, it shall be destroyed or otherwise disposed of as the district director shall specify. The district director shall insure that such merchandise is destroyed or removed from the control of the importer to avoid the possibility of any part of the same merchandise being made the subject of another application. (Secs. 506(1), 563(b), 46 Stat. 732, as amended, 746, as amended; 19 U.S.C. 1506(1), 1563(b) R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

§ 158.45 Exportation of merchandise.

(a) *From continuous Customs custody.* Merchandise in Customs custody for which entry has not been completed and merchandise which has remained in continuous Customs custody that is covered by a liquidated or unliquidated consumption entry may be exported under Customs supervision in accordance with § § 18.25-18.27 of this chapter, with refund of any duties that have been paid.

(b) *After release from Customs custody.* Except as provided for in paragraphs (c) and (d) of this section, no refund or other allowance in duties shall be made because of the exportation of merchandise after its release from Customs custody unless a drawback of duties is expressly provided for by law (see Part 22 of this chapter).

(c) *Prohibited merchandise.* If merchandise has been regularly entered or withdrawn for consumption in good faith and is thereafter found to be prohibited entry under any law of the United States, it may be exported under Customs supervision in accordance with § § 18.25-18.27 of this chapter, with refund of any duties that have been paid. In lieu of exportation, the merchandise may be destroyed in accordance with § 158.41.

(d) *Not legally marked merchandise.* When merchandise found to be not legally marked is exported or destroyed under Customs supervision after once having been released from Customs custody, as provided for in section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)), such exportation or destruction shall not exempt such merchandise from the payment of duties other than the marking duties. (Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

PART 159—LIQUIDATION OF DUTIES

Sec.
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Authority: R.S. 251, as amended, secs. 500, 624, 46 Stat. 729, as amended, 759; 19 U.S.C. 66, 1500, 1624. Subpart C also issued under sec. 522, 46 Stat. 739, as amended; 31 U.S.C. 372. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

Source: T.D. 73-175, 38 FR 17482, July 2, 1973, unless otherwise noted.

§ 159.0 Scope.

This part sets forth general rules for the liquidation of entries. Certain specific procedures affecting liquidation appear in other parts of this chapter; e.g., Part 158 of this chapter covers allowance for lost or damaged merchandise. **[TD 73-175.]**

Subpart A—General Provisions

§ 159.1 Definition of liquidation.

"Liquidation" means the final computation or ascertainment of the duties or drawback accruing on an entry.

§ 159.2 Liquidation required.

All entries covering imported merchandise, except temporary importation bond entries and those for transportation in bond or for immediate exportation, shall be liquidated.

§ 159.3 Rounding of fractions.

(a) *Value.* In the computation of duty on entries, ad valorem rates shall be applied to the values in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1, with all merchandise in the same invoice subject to the same rate of duty to be treated as a unit. However, the total dutiable value of the invoice shall not be increased or decreased by more than the rounding of the total dutiable value to an even dollar. When necessary, fractional parts of a dollar, whether more or less than 50 cents, shall be dropped or taken up as whole dollars in order to avoid such an increase or decrease. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up, as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar shall be considered.

(b) *Quantities subject to specific duty.* Except in the case of alcoholic beverages treated under § 159.4, if a rate of duty is specific and $1 or less per unit, fractional quantities, if less than one-half, shall be disregarded, and if one-half or more shall be treated as a whole unit. Subject to the same exception, if a specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity with any fractional part expressed in the form of a decimal extended to two places.

§ 159.4 Alcoholic beverages.

(a) *Quantities subject to duties.* Customs duties and internal revenue taxes on distilled spirits provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to internal revenue taxes shall be collected only on the number of proof gallons and fractional parts thereof, entered or withdrawn for consumption. No internal revenue tax shall be collected on distilled spirits in bulk which have been transferred to Internal Revenue bonded premises in accordance with

§ 141.102(b) of this chapter. Customs duties and internal revenue taxes on alcoholic beverages other than items 167.20 and 167.90, Tariff Schedules of the United States (19 U.S.C. 1202), and distilled spirits provided for in schedule 1, part 12, Tariff Schedules of the United States, shall be collected only on the number of wine gallons and fractional parts thereof, entered or withdrawn for consumption. **[TD 80-271.]**

(b) *Computation of duties.* In the computation of Customs duties on alcoholic beverages provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), which are also subject to internal revenue taxes, the methods prescribed for the computation of internal revenue taxes on such beverages shall be followed. The following methods apply to the specific beverages shown:

(1) *Distilled spirits.* The quantity of distilled spirits imported in barrels, kegs, or similar containers shall be ascertained in accordance with the regulations of the Bureau of Alcohol, Tobacco, and Firearms. Where distilled spirits are imported in bottles, jugs, or similar containers, Customs duties and taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried out to three decimal places. **[TD 78-329]**

(2) *Wine.* Customs duties and taxes on wines shall be on the basis of a wine gallon of liquid measure equivalent to 231 cubic inches and shall be paid proportionally on all fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon.

(3) *Beer and similar fermented beverages.* Customs duties and taxes on beer, ale, porter, stout, and other similar fermented beverages, including sake, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, shall be collected in accordance with section 5051(a), Internal Revenue Code of 1954 (26 U.S.C. 5051(a)). (Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.5 Cigars, cigarettes, and cigarette papers and tubes.

The internal revenue taxes imposed on cigars, cigarettes, and cigarette papers and tubes under section 5701 or 7652, Internal Revenue Code of 1954 (26 U.S.C. 5701 or 7652), are determined in accordance with section 5703 of that Code (26 U.S.C. 5703) at the time of removal; that is, on the quantity removed from Customs custody under the entry or withdrawal for consumption. The Customs duties, unlike those on alcoholic beverages, do not necessarily apply only to such quantities. (Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.6 Difference between liquidated duties and estimated duties.

(a) *Difference under $10 in original liquidation.* When there is a net difference of less than $10 between the total amount of duties assessed in the liquidation of any entry (other than an informal, mail, or baggage entry) and the total amount of estimated duties deposited, including any supplemental deposit, the difference shall be disregarded and the entry endorsed "as entered." In the case of an informal, mail, or baggage entry, the amount of duties computed by a Customs officer when the entry is prepared by, or filed with, him shall be considered the liquidated assessment. **[TD 78-394]**

(b) *Difference under $10 in reliquidation.* When there is a net difference of less than $10 between the total amount of duties found due in the reliquidation of any entry and the total amount of duties assessed in the prior liquidation of the entry, the difference shall be disregarded except in the following cases: **[TD 78-394]**

(1) *Reliquidation at importer's request.* When reliquidation of any entry is made at the importer's request, such as reliquidation following the allowance of a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), or a request for correction under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), any refund determined to be due shall be refunded even if less than $10.

(2) *Court decision.* Any refund or increase determined to be due as the result of the reliquidation of an entry in accordance with a court decision and judgment order shall be refunded or collected as the case may be.

(c) *Difference of $10 or more collected or refunded.* If there is a difference of $10 or more between the duties assessed in the liquidation of an entry and the total estimated duties deposited, or between the total duties assessed in the reliquidation of an entry and those assessed in the prior liquidation, the entry shall be endorsed to show the difference and bills or refund checks shall be issued. **[TD 78-394]**

(d) *Customs duties and taxes netted for $10 limit.* The assessments of Customs duties and internal revenue taxes shall be separately stated on the entry at the time of liquidation, but the amounts of any differences shall be netted when applying the $10 minimum for issuance of a bill or refund check. (Sec. 7, 52 Stat. 1081, as amended, sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1321, 1505) **[TD 78-394]**

§ 159.7 Rewarehouse entries.

The liquidation of the original warehouse entry shall be followed in determining the liability for duties on a rewarehouse entry, except in the following cases:

(a) *Merchandise excluded from liquidation of original warehouse entry.* When any of the following types of merchandise are withdrawn from warehouse for transportation to another port, they shall be excluded from the liquidation of the original warehouse entry, and the liability for duties shall be determined by a liquidation of the rewarehouse entry made in the district where the merchandise is withdrawn for consumption or for exportation:

(1) Alcoholic beverages provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to internal revenue taxes;

(2) Cigars, cigarettes, and cigarette papers and tubes subject to internal revenue taxes;

(3) Tariff-rate quota merchandise; and

(4) Wool or hair subject to duty at a rate per clean pound under schedule 3, part 1, subpart C, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Reliquidation required by change in rate.* When a rate of Customs duty or tax is changed by an act of Congress or a proclamation of the President, any necessary reliquidation of Customs duty or tax on merchandise covered by a rewarehouse entry which may be required by reason of the change in rate shall be made in the district in which the merchandise is held in Customs custody on the effective date of the change.

(c) *Shortage, irregular delivery, nondelivery, and other cases.* In cases involving shortage, irregular delivery, or nondelivery under the original warehouse withdrawal for transportation, or in other cases when the district director of the port where the merchandise is entered for rewarehouse is of the opinion that circumstances make it inadvisable to follow the liquidation of the original warehouse entry, he shall make an appropriate adjustment in the amount of duties to be assessed under the rewarehouse entry. (Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

§ 159.8 Allowance for loss, injury, etc.

Allowance in duties for any merchandise which is lost, stolen, destroyed, injured, abandoned, or short-shipped shall be made in accordance with the provisions of Part 158 of this chapter.

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

(a) *Bulletin notice of liquidation.* Notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs Form 4333 or 4335:

(1) *Customs Form 4333.* Customs Form 4333 shall be used for the following types of entries:

(i) Dutiable consumption entries;

(ii) Free consumption entries liquidated as dutiable;

(iii) Warehouse entries;

(iv) Drawback entries;

(v) Vessel repair entries;

(vi) Appraisement entries;

(vii) Permanent exhibition entries liquidated as dutiable; and

(viii) Other entries for which a bulletin notice of liquidation is required and for which Customs Form 4335 is not appropriate.

(2) *Customs Form 4335.* Customs Form 4335 shall be used for free consumption entries liquidated "as entered" and permanent exhibition entries liquidated "Free." When free consumption entries in an unbroken series are liquidated free on the same day, the first and last entry numbers may be shown on the bulletin notice, e.g., "576/863," instead of listing every number in the unbroken series.

(b) *Posting of bulletin notice.* The bulletin notice of liquidation shall be posted for the information of importers in a conspicuous place in the customhouse at the port of entry (or Customs station, when the entries listed were filed at a Customs station outside the limits of a port of entry), or shall be lodged at some other suitable place in the customhouse in such a manner that it can readily be located and consulted by all interested persons, who shall be directed to that place by a notice maintained in a conspicuous place in the customhouse stating where notices of liquidation of entries are to be found.

(c) *Date of liquidation*—(1) *Generally.*—The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated", with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. This stamping shall be deemed the legal evidence of liquidation.

(2) *Exception: Entries liquidated by operation of law.*—(i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in sections 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse. **[TD 79-221.]**

(d) *Courtesy notice of liquidation.*—Customs will endeavor to provide importers or their agents with Customs form 4333-A; Courtesy Notice, for entries specified in section 159.9(a)(1), scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct, formal, and decisive notice of liquidation. **[TD 79-221.]**

§ 159.10 Notice of liquidation and date of liquidation for informal, mail, and baggage entries.

(a) *Usual date of liquidation.* Except in the cases provided for in paragraph (b) of this section, the effective date of liquidation for informal, mail, and baggage entries shall be:

(1) The date of payment by the importer of duties due on the entry;

(2) The date of release by Customs or the postmaster when the merchandise is released under such an entry free of duty; and

(3) The date a free entry is accepted for articles released under a special permit for immediate delivery under Part 142 of this chapter.

(b) *Date of liquidation when duty cannot be determined at time of entry.* When the proper rate or amount of duty cannot be determined at the time of entry because the merchandise is subject to a tariff-rate quota, because of a missing document which, if for free entry, is not produced prior to the release of the merchandise to the importer, or because of any other reason, the printed notice of liquidation appearing on the receipt issued for any money collected on the entry shall be voided. When the tariff status of the merchandise either as dutiable or free is finally ascertained it shall be noted on the entry. The effective date of liquidation shall be the date of posting or lodging of the notice of liquidation required by paragraph (c)(3) of this section.

(c) *Notice of liquidation*—(1) *Dutiable entries.* Where duties are paid on an entry in accordance with paragraph (a)(1) of this section, notice of liquidation is furnished by a suitable printed statement appearing on the receipt issued for duties collected. No other notice of liquidation shall be given, but notice of reliquidation of any such entry shall be given on Customs Form 4333 posted or lodged in the place and manner specified in § 159.9(b).

(2) *Free entries.* Notice of liquidation is furnished by release of the merchandise under a free entry in accordance with paragraph (a)(2) of this section, or by acceptance of the free entry in accordance with paragraph (a)(3) of this section after release under a special permit for immediate delivery. No further notice of the liquidation of such entries shall be given.

(3) *Entries where duty cannot be determined at time of entry.* When the proper rate or amount of duty cannot be determined at the time of entry as set forth in paragraph (b) of this section, notice of liquidation shall be given on a bulletin notice of liquidation, Customs Form 4333 or 4335, in the manner specified in § 159.9 for formal entries.

§ 159.11 Entries liquidated by operation of law.

(a) *Time limit generally.*—Except as provided in section 159.12, an entry not liquidated within 1 year from the date of entry of the merchandise, or the date of final withdrawal of all merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duties asserted by the importer at the time of filing an entry summary for consumption in proper form, with estimated duties attached, or withdrawal for consumption in proper form, with estimated duties attached. Notice of liquidation shall be given on the bulletin notice of liquidation, Customs form 4333 or 4335, as provided in sections 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs form 4333-A in accordance with section 159.9(d).

(b) *Applicability.*—The provisions of this section and section 159.12 shall apply to entries of merchandise for consumption or withdrawals of merchandise for consumption made on or after April 1, 1979, but shall not apply to vessel repair entries or drawback entries. **[TD 79-221.]**

§ 159.12 Extension of time for liquidation.

(a) *Reasons*—(1) *Extension.*—The district director may extend the 1-year statutory period for liquidation for an additional period not to exceed 1 year if:

(i) *Information needed by Customs.*—Information needed by Customs for the proper appraisement or classification of the merchandise is not available, or

(ii) *Importer's request.*—The importer requests an extension in writing before the statutory period expires and shows good cause why the extension should be granted. "Good cause" is demonstrated when the importer satisfies the district director that more time is needed to present to Customs information which will affect the pending action, or there is a similar question under review by Customs.

(2) *Suspension.*—The 1-year liquidation period may be suspended as required by statute or court order.

(b) *Notice of extension.*—If the district director extends the time for liquidation, as provided in paragraph (a)(1) of this section, he promptly shall notify the importer or the consignee and his agent and surety on Customs form 4333-A, appropriately modified, that the time has been extended and the reasons for doing so.

(c) *Notice of suspension.*—If the liquidation of an entry is suspended as required by statute or court order, as provided in paragraph (a)(2) of this section, the district director promptly shall notify the importer or the consignee and his agent and surety on Customs form 4333-A, appropriately modified, of the suspension.

(d) *Additional extensions*—(1) *Information needed by Customs.*—If an extension has been granted because Customs needs more information and the district director thereafter determines that more time is needed, he may extend the time for liquidation for an additional period not to exceed 1 year provided he issues the notice required by paragraph (b) of this section before termination of the prior extension period.

(2) *At importer's request.*—If the statutory period has been extended for 1 year at the importer's request, and the importer thereafter determines that additional time is necessary, he may request another extension in writing before the original extension expires, giving reasons for his request. If the district director finds that good cause (as defined in paragraph (a)(1)(ii) of this section) exists, he shall issue a notice extending the time for liquidation for an additional period not to exceed 1 year.

(e) *Limitation on extensions.*—The total time for which extensions may be granted by the district director may not exceed 3 years.

(f) *Time limitation*—(1) *Generally.*—An entry not liquidated within 4 years from either the date of entry, or the date of final withdrawal of all the merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duty asserted by the importer at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or the withdrawal for consumption in proper form, with estimated duties attached, unless liquidation continues to be suspended by statute or court order. Customs will endeavor to provide a courtesy notice of liquidation on Customs form 4333-A, in accordance with section 159.9(d), in addition to the bulletin notice specified in section 159.9(c)(2)(ii).

(2) *Suspension of liquidation by statute or court order.*—When liquidation of an entry continues to be suspended beyond the 4-year period specified in paragraph (f)(1) of this section due to a statute or court order, the entry shall be liquidated within 90 days after removal of the suspension.

(g) *Notice of liquidation.*—If an entry is liquidated after an extension expires or a suspension is removed, notice of liquidation shall be given on the bulletin notice of liquidation, Customs form 4333 or 4335, as provided in sections 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs form 4333-A in accordance with section 159.9(d). **[TD 79-221.]**

Subpart B—Weight, Gauge, and Measure

§ 159.21 Quantity upon which duties based.

Insofar as duties are based upon the quantity of any merchandise, such duties shall be based upon the quantity of such merchandise at the time of its importation, except in the following cases:

(a) *Manipulation in warehouse.* If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), withdrawals shall be passed and the entry liquidated on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise.

(b) *Alcoholic beverages.* Duties on certain alcoholic beverages are assessed only on the quantities entered or withdrawn for consumption (see § 159.4).

(c) *Cigars, cigarettes, and cigarette papers and tubes.* Although Customs duties on cigars, cigarettes, and cigarette papers and tubes are assessed on the quantities imported, the internal revenue taxes on such merchandise are assessed only on the quantities entered or withdrawn for consumption (see § 159.5). (Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.22 Net weights and tares.

(a) *Determination of net weight.* The net weight of merchandise dutiable by net weight, or upon a value dependent upon net weight, shall be determined insofar as possible by obtaining the actual weight, or by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) *Invoice net weight or tare.* When the actual net weight or tare cannot reasonably be determined and no schedule tare is applicable, liquidation may be made on the basis of the invoice net weight or tare.

(c) *Schedule tare.* The following tares, which, from experience, have proved to be the average for certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes: Eight pounds per box. This schedule tare includes the paper wrappers, if any, on the apples.

China clay in so-called half-ton casks: Seventy-two pounds per cask.

Figs in skeleton cases: Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes: Four ounces per 100 paper wrappings.

Lemons and oranges: Ten ounces per box and 5 ounces per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks: Eight percent of the gross weight.

Ocher, in oil, in casks: Twelve percent of the gross weight.

Pimientos in tins imported from Spain: The following schedule drained weight shall be used as the Customs dutiable weight in the liquidation of entries, the difference between the weight of the net contents of pimientos in tins and such drained weight being the allowance made in liquidation for tare for water:

Size can	*Drained weight*
3 kilo	30 lb.—case of 6 tims.
28 oz	36.72 lb.—case of 24 tins.
15 oz	17.72 lb.—case of 24 tins.
7 oz	8.62 lb.—case of 24 tins.
4 oz	5.33 lb.—case of 24 tins.

Tobacco, leaf not stemmed: Thirteen pounds per bale.

Tobacco, Sumatra: Actual tare for outside coverings, plus 4 1/4 pounds for the inside matting and, if a certificate is attached to the special Customs or commercial invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 4 or 8 ounces for the paper wrapping according to the thickness of paper used.

(d) *Actual tare.* In the following circumstances, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary:

(1) If the importer is not satisfied with the invoice tare or with the schedule tare;

(2) If the district director is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise; or

(3) If the weigher has reason to believe that the invoice or schedule tare is greater than the real tare.

(e) *Estimated tare.* When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

(f) *Weight for value purposes.* In determining the total dutiable value of merchandise which is subject to ad valorem duty and appraised on the basis of weight, liquidation shall be made on the same basis as appraisement. For example, if appraisement is made on the basis of gross weight, the unit value shall be multiplied by the total gross weight in computing the total value even though net weight may be used for other purposes in liquidation, such as in determining total specific duties. (Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

Subpart C—Conversion of Foreign Currency

§ 159.31 Rates to be used.

Except as otherwise specified in this subpart, no rate or rates of exchange shall be used to convert foreign currency for Customs purposes other than a proclaimed rate or certified rate or rates.

§ 159.32 Date of exportation.

The date of exportation for currency conversion shall be fixed in accordance with § 152.1(c) of this chapter.

§ 159.33 Proclaimed rate.

If a rate of exchange has been proclaimed by the Secretary of the Treasury in accordance with 31 U.S.C. 372(a) for the currency involved, such proclaimed rate shall be used unless it varies by 5 percent or more from the certified daily rate for the date of exportation as set forth in § 159.35. In determining the percentage of variation between the proclaimed rate and the certified rate, the difference between the two rates shall be divided by the certified rate.

§ 159.34 Certified quarterly rate.

(a) *Countries for which quarterly rate is certified.* For the currency of each of the following foreign countries, there will be published in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter:

Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Hong Kong, India, Iran, Ireland, Italy, Japan, Malaysia, Mexico, Netherlands, New Zealand, Norway, People's Republic of China, Philippines, Portugal, Republic of South Africa, Singapore, Spain, Sri Lanka (Ceylon), Sweden, Switzerland, Thailand, United Kingdom, Venezuela.

(b) *When certified quarterly rate is used.* The certified quarterly rate established under paragraph (a) of this section shall be used for Customs purposes for any date of exportation within the quarter, except in the following cases:

(1) *Proclaimed rate.* If a rate has been proclaimed by the Secretary of the Treasury under § 159.33 which does not vary by 5 percent or more from the appropriate certified daily rate, notice of such variance shall be published in the Customs Bulletin and the proclaimed rate shall be used for Customs purposes in connection with merchandise exported on such date.

(2) *Certified daily rate.* If the certified daily rate for the date of exportation varies by 5 percent or more from the certified quarterly rate, notice of such variation and the rate or rates certified for such day shall be published in the Customs Bulletin, and such certified daily rate shall be used for Customs purposes in connection with merchandise exported on such day. **[TD 81-117]**

§ 159.35 Certified daily rate.

The daily buying rate of foreign currency which is determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury in accordance with 31 U.S.C. 372(c)(2) shall be used for the conversion of foreign currency whenever a proclaimed rate or certified quarterly rate is not applicable under the provisions of §§ 159.33 and 159.34. If the date of exportation is one on which banks are generally closed in New York City, then the certified daily rate for the last preceding business day shall be considered the certified daily rate for the day of exportation.

§ 159.36 Multiple certified rates.

The following procedures shall apply when the Federal Reserve Bank of New York certifies two or more rates of exchange (e.g., official and free) for a foreign currency:

(a) *Rates to be published.* When the Federal Reserve Bank of New York certifies two or more rates of exchange for the currency of any country, those rates will be published in the Customs Bulletin.

(b) *Laws of country of exportation followed.* When multiple rates have been certified for a foreign currency, the rate to be used for Customs purposes shall be the type of certified rate which the district director is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained from other sources, is uniformly applicable under the laws and regulations of the country of exportation to the particular class of merchandise on the date of exportation. In cases where two or more types of certified rates are uniformly applicable on a percentage bases, each type of certified rate shall be used for the percentage of value to which it is applicable. The percentages used shall be those which reflect realistically the percentage for which each type of rate is uniformly applicable under the laws and regulations of the country of exportation on the date of exportation.

(c) *Procedure when multiple certified rates not uniformly applicable.* If the district director has credible information that a type of rate or combination of types of rates which would otherwise be applicable under paragraph (b) of this section were not required or permitted, as the case may be, under the laws and regulations of the country of exportation to be used uniformly during any period in connection with the payment for all merchandise of the class involved, he shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner of Customs.

(d) *Rate for merchandise different from rate for costs.* If the district director has credible information that a type of rate or combination of types of rates not applicable to payment for the merchandise was required or permitted in payment of costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. In deducting nondutiable costs, charges, or expenses, the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified in accordance with § 159.34 or § 159.35. If the costs, charges or expenses are dutiable, they shall be calculated according to the rules set forth in this subpart. In the event that any type of rate uniformly applicable to payment of such dutiable costs, charges, or expenses for merchandise of the class involved was a type of rate not certified in accordance with § 159.34 or § 159.35, the district director shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner.

§ 159.37 Suspension of certification of rates.

Whenever the Federal Reserve Bank of New York advises that its certification of rates for a currency is being suspended pending determination of the question whether it will certify multiple rates for that currency, the following procedures shall apply:

(a) *Notification of suspension.* Customs field officers will be informed when certification of a currency is being suspended. Currency information received from the Federal Reserve Bank, or otherwise available, which might be helpful in calculating estimated duties during the period of suspension will be furnished to the Customs field officers.

(b) *Suspension of liquidation.* In any case where for the purposes of the assessment and collection of duties it is necessary to determine the proper rate or rates for a currency during the period when it has been suspended from certification, appraisement and liquidation shall be suspended until resumption of certification.

(c) *Resumption of certification.* When certification is resumed by the Federal Reserve Bank, the procedures in § 159.36 shall apply.

(a) *Manipulation in warehouse.* If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), withdrawals shall be passed and the entry liquidated on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise.

(b) *Alcoholic beverages.* Duties on certain alcoholic beverages are assessed only on the quantities entered or withdrawn for consumption (see § 159.4).

(c) *Cigars, cigarettes, and cigarette papers and tubes.* Although Customs duties on cigars, cigarettes, and cigarette papers and tubes are assessed on the quantities imported, the internal revenue taxes on such merchandise are assessed only on the quantities entered or withdrawn for consumption (see § 159.5). (Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.22 Net weights and tares.

(a) *Determination of net weight.* The net weight of merchandise dutiable by net weight, or upon a value dependent upon net weight, shall be determined insofar as possible by obtaining the actual weight, or by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) *Invoice net weight or tare.* When the actual net weight or tare cannot reasonably be determined and no schedule tare is applicable, liquidation may be made on the basis of the invoice net weight or tare.

(c) *Schedule tare.* The following tares, which, from experience, have proved to be the average for certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes: Eight pounds per box. This schedule tare includes the paper wrappers, if any, on the apples.

China clay in so-called half-ton casks: Seventy-two pounds per cask.

Figs in skeleton cases: Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes: Four ounces per 100 paper wrappings.

Lemons and oranges: Ten ounces per box and 5 ounces per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks: Eight percent of the gross weight.

Ocher, in oil, in casks: Twelve percent of the gross weight.

Pimientos in tins imported from Spain: The following schedule drained weight shall be used as the Customs dutiable weight in the liquidation of entries, the difference between the weight of the net contents of pimientos in tins and such drained weight being the allowance made in liquidation for tare for water:

Size can	*Drained weight*
3 kilo	30 lb.—case of 6 tims.
28 oz	36.72 lb.—case of 24 tins.
15 oz	17.72 lb.—case of 24 tins.
7 oz	8.62 lb.—case of 24 tins.
4 oz	5.33 lb.—case of 24 tins.

Tobacco, leaf not stemmed: Thirteen pounds per bale.

Tobacco, Sumatra: Actual tare for outside coverings, plus 4 1/4 pounds for the inside matting and, if a certificate is attached to the special Customs or commercial invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 4 or 8 ounces for the paper wrapping according to the thickness of paper used.

(d) *Actual tare.* In the following circumstances, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary:

(1) If the importer is not satisfied with the invoice tare or with the schedule tare;

(2) If the district director is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise; or

(3) If the weigher has reason to believe that the invoice or schedule tare is greater than the real tare.

(e) *Estimated tare.* When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

(f) *Weight for value purposes.* In determining the total dutiable value of merchandise which is subject to ad valorem duty and appraised on the basis of weight, liquidation shall be made on the same basis as appraisement. For example, if appraisement is made on the basis of gross weight, the unit value shall be multiplied by the total gross weight in computing the total value even though net weight may be used for other purposes in liquidation, such as in determining total specific duties. (Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

Subpart C—Conversion of Foreign Currency

§ 159.31 Rates to be used.

Except as otherwise specified in this subpart, no rate or rates of exchange shall be used to convert foreign currency for Customs purposes other than a proclaimed rate or certified rate or rates.

§ 159.32 Date of exportation.

The date of exportation for currency conversion shall be fixed in accordance with § 152.1(c) of this chapter.

§ 159.33 Proclaimed rate.

If a rate of exchange has been proclaimed by the Secretary of the Treasury in accordance with 31 U.S.C. 372(a) for the currency involved, such proclaimed rate shall be used unless it varies by 5 percent or more from the certified daily rate for the date of exportation as set forth in § 159.35. In determining the percentage of variation between the proclaimed rate and the certified rate, the difference between the two rates shall be divided by the certified rate.

§ 159.34 Certified quarterly rate.

(a) *Countries for which quarterly rate is certified.* For the currency of each of the following foreign countries, there will be published in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter:

Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, Malaysia, Mexico, Netherlands, New Zealand, Norway, Portugal, Republic of South Africa, Spain, Sri Lanka (Ceylon), Sweden, Switzerland, United Kingdom.

(b) *When certified quarterly rate is used.* The certified quarterly rate established under paragraph (a) of this section shall be used for Customs purposes for any date of exportation within the quarter, except in the following cases:

(1) *Proclaimed rate.* If a rate has been proclaimed by the Secretary of the Treasury under § 159.33 which does not vary by 5 percent or more from the appropriate certified daily rate, notice of such variance shall be published in the Customs Bulletin and the proclaimed rate shall be used for Customs purposes in connection with merchandise exported on such date.

(2) *Certified daily rate.* If the certified daily rate for the date of exportation varies by 5 percent or more from the certified quarterly rate, notice of such variation and the rate or rates certified for such day shall be published in the Customs Bulletin, and such certified daily rate shall be used for Customs purposes in connection with merchandise exported on such day.

§ 159.35 Certified daily rate.

The daily buying rate of foreign currency which is determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury in accordance with 31 U.S.C. 372(c)(2) shall be used for the conversion of foreign currency whenever a proclaimed rate or certified quarterly rate is not applicable under the provisions of § § 159.33 and 159.34. If the date of exportation is one on which banks are generally closed in New York City, then the certified daily rate for the last preceding business day shall be considered the certified daily rate for the day of exportation.

§ 159.36 Multiple certified rates.

The following procedures shall apply when the Federal Reserve Bank of New York certifies two or more rates of exchange (e.g., official and free) for a foreign currency:

(a) *Rates to be published.* When the Federal Reserve Bank of New York certifies two or more rates of exchange for the currency of any country, those rates will be published in the Customs Bulletin.

(b) *Laws of country of exportation followed.* When multiple rates have been certified for a foreign currency, the rate to be used for Customs purposes shall be the type of certified rate which the district director is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained from other sources, is uniformly applicable under the laws and regulations of the country of exportation to the particular class of merchandise on the date of exportation. In cases where two or more types of certified rates are uniformly applicable on a percentage bases, each type of certified rate shall be used for the percentage of value to which it is applicable. The percentages used shall be those which reflect realistically the percentage for which each type of rate is uniformly applicable under the laws and regulations of the country of exportation on the date of exportation.

(c) *Procedure when multiple certified rates not uniformly applicable.* If the district director has credible information that a type of rate or combination of types of rates which would otherwise be applicable under paragraph (b) of this section were not required or permitted, as the case may be, under the laws and regulations of the country of exportation to be used uniformly during any period in connection with the payment for all merchandise of the class involved, he shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner of Customs.

(d) *Rate for merchandise different from rate for costs.* If the district director has credible information that a type of rate or combination of types of rates not applicable to payment for the merchandise was required or permitted in payment of costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. In deducting nondutiable costs, charges, or expenses, the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified in accordance with § 159.34 or § 159.35. If the costs, charges or expenses are dutiable, they shall be calculated according to the rules set forth in this subpart. In the event that any type of rate uniformly applicable to payment of such dutiable costs, charges, or expenses for merchandise of the class involved was a type of rate not certified in accordance with § 159.34 or § 159.35, the district director shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner.

§ 159.37 Suspension of certification of rates.

Whenever the Federal Reserve Bank of New York advises that its certification of rates for a currency is being suspended pending determination of the question whether it will certify multiple rates for that currency, the following procedures shall apply:

(a) *Notification of suspension.* Customs field officers will be informed when certification of a currency is being suspended. Currency information received from the Federal Reserve Bank, or otherwise available, which might be helpful in calculating estimated duties during the period of suspension will be furnished to the Customs field officers.

(b) *Suspension of liquidation.* In any case where for the purposes of the assessment and collection of duties it is necessary to determine the proper rate or rates for a currency during the period when it has been suspended from certification, appraisement and liquidation shall be suspended until resumption of certification.

(c) *Resumption of certification.* When certification is resumed by the Federal Reserve Bank, the procedures in § 159.36 shall apply.

§ 159.38 Rates for estimated duties.

For purposes of calculating estimated duties, the district director shall use the rate or rates appearing to be applicable under the instructions in this subpart to the merchandise involved. When it is not yet known what certified rate or rates are applicable or no rate has been certified, the district director shall take into account all the information in his possession and shall use the highest rate or combination of rates (i.e., the rate or combination of rates showing the highest amount of United States money), certified or uncertified as the case may be, which could be applicable.

Subpart D—Special Duties

§ 159.41 Antidumping duties.

Antidumping duties shall be assessed in accordance with Part 353, Chapter III, of this title. [TD 80-271.]

§ 159.42 Discriminating duties.

The discriminating duties provided for in subsection 1 of paragraph J, section IV, Tariff Act of 1913, as amended by the Act of March 4, 1915 (19 U.S.C. 128, 131), and the discriminating duties and penalties provided for in section 338, Tariff Act of 1930 (19 U.S.C. 1338), shall be imposed only in pursuance of specific instructions from the Commissioner of Customs.

§ 159.43 Duties contingent upon foreign export duties, charges, or restrictions.

Schedule 2, part 4, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), provides for the imposition under certain conditions of additional duties on merchandise covered thereby. The assessment of these additional duties is dependent upon action by the President, and notice of such action, if taken, will be published in the Customs Bulletin.

§ 159.44 Special duties on merchandise imported under agreements in restraint of trade.

Whenever it appears that imported articles may be subject to the special duties provided for in section 802, Act of September 8, 1916 (15 U.S.C. 73), the district director shall report the matter to the Commissioner of Customs and await instructions with respect to the imposition of such duties. (Sec. 802, 803, 39 Stat. 799; 15 U.S.C. 73, 74)

§ 159.45 Additional duty for unauthentic claims of antiquity.

When additional duty is imposed in accordance with § 10.53 of this chapter for an unauthentic claim of antiquity, such duty shall be assessed in addition to any other duty imposed on the merchandise by law.

§ 159.46 Marking duties.

(a) *Based on dutiable value.* The marking duty prescribed by section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)), shall be assessed upon the dutiable value as defined in section 503, Tariff Act of 1930, as amended (19 U.S.C. 1503).

(b) *Suspension of liquidation.* The liquidation of entries shall not be suspended merely because the merchandise covered thereby is not legally marked, but, upon special application by the importer, the liquidation may be deferred for a reasonable time to permit the marking, destruction, or exportation of the merchandise. (Sec. 304, 46 Stat. 687, as amended; 19 U.S.C. 1304)

§ 159.47 Countervailing duties.

Countervailing duties shall be assessed in accordance with Part 355, Chapter III, of this title. [TD 80-271.]

Subpart E—Suspension of Liquidation

§ 159.51 General.

Liquidation of entries shall be suspended only when provided by law or regulation, or when directed by the Commissioner of Customs. Liquidation of entries shall not be suspended simply because issues involved therein may be before the Customs Court in pending litigation, since the importer may seek relief by protesting the entries after liquidation.

§ 159.52 Warehouse entry not liquidated until final withdrawal.

Liquidation of a warehouse or rewarehouse entry shall be suspended until all merchandise covered by the entry has been accounted for within the bonded period by withdrawal, abandonment, or destruction, or until the bonded period has expired if the merchandise has not been so accounted for before that time.

§ 159.53 Proof of duty-free or reduced-duty status.

Various provisions in Part 10 of this chapter provide for suspending liquidation of entries covering certain merchandise entered at a conditionally free or conditionally reduced rate of duty, pending production of required proof. Upon production of the required proof, or upon failure to produce the proof within the required time, the entries shall be liquidated accordingly.

§ 159.54 Open bonds for production of documents.

The liquidation of entries on which bonds are open for the production of documents affecting the rate of duty shall be suspended pending the performance or nonperformance under the bond, unless production of the document is waived in accordance with § 141.92 of this chapter.

§ 159.55 Possible prohibited food, drugs, or other articles.

(a) *Suspension of liquidation.* The liquidation of each entry covering merchandise the subject of § 12.1 of this chapter (which pertains to certain foods, drugs, cosmetics, economic poisons, hazardous substances, dangerous caustic or corrosive substances, and related items) shall be suspended until it is determined whether admission of the merchandise into the United States is permitted under the law.

(b) *Allowance for exportation or destruction.* In any case where the admission of such merchandise into the United States is refused and the merchandise is exported under Customs supervision in accordance with § 158.45(b) of this chapter, or destroyed under Customs supervision in accordance with § 158.41 of this chapter, the merchandise is exempt from duty and any duties collected thereon shall be refunded. (Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

§ 159.57 Merchandise affected by an American manufacturer's cause of action sustained by the court.

Liquidation of entries for merchandise of the character covered by a decision of the Secretary of the Treasury published in accordance with § 175.24 of this chapter, entered or withdrawn for consumption after the date of publication of a decision of the U.S. Customs Court sustaining in whole or in part the cause of action of an American manufacturer, producer, or wholesaler, shall be suspended until final disposition is made of the cause of action. Upon final disposition, such entries shall be liquidated, or, if necessary, reliquidated in accordance with the final judicial decision. (Sec. 516, 46 Stat. 735, as amended; 19 U.S.C. 1516)

§ 159.58 Dumping and countervailing duties; Action by district director.

(a) *Antidumping matters.* Upon receipt of notification from the Commissioner, each district director shall suspend liquidation on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the "Notice of Preliminary Affirmative Antidumping Determination," "Notice of Final Affirmative Antidumping Determination" or "Notice of Violation of Agreement" as provided by Part 353, Chapter III, of this title. Each district director shall immediately notify the importer, consignee, or agent of each entry of merchandise in question with respect to which liquidation is suspended. The notice shall indicate the relevant ascertained and determined or estimated antidumping duty.

(b) *Countervailing matters.* Upon receipt of notification from the Commissioner, each district director shall suspend liquidation on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the "Notice of Preliminary Affirmative Countervailing Duty Determination," "Notice of Final Affirmative Countervailing Duty Determination" or "Notice of Violation of Agreement," as provided by Part 355, Chapter III, of this title. Each district director shall immediately notify the importer, consignee, or agent of each entry of merchandise in question with respect to which liquidation is suspended. The notice shall indicate the relevant ascertained and determined or estimated countervailing duty.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) **[TD 80-271.]**

PART 161—GENERAL ENFORCEMENT PROVISIONS

Sec.
161.0 Scope.

Subpart A—General Provisions

161.1 Customs supervision.
161.2 Enforcement for other agencies.
161.3 Prosecution for violation of Customs laws.
161.4 Bribery of Customs officers and employees.
161.5 Compromise of Government claims.

Subpart B—Informer's Compensation

161.11 Claim for compensation by informer.
161.12 Filing of claim.
161.13 Limitation on claims.
161.14 Payment of claims.
161.15 Informer's name confidential.

Authority: 80 Stat. 379, R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1624, unless otherwise noted.

Source: T.D. 72-213, 37 FR 16487, Aug. 15, 1972, unless otherwise noted.

§ 161.0 Scope.

The provisions of this part set forth the authority and responsibility of Customs officers in the enforcement of Customs laws of the United States. Also included are provisions relating to import and export controls enforced for other administering agencies, prosecution for violation of Customs laws, bribery of Customs officers and employees, the compromise of Government claims and informer's compensation. **[TD 72-211.]**

Subpart A—General Provisions

§ 161.1 Customs supervision.

Whenever any action or thing is required by the regulations in this chapter, or by any provision of the Customs or navigation laws, to be done or maintained under the supervision of Customs officers, such supervision shall be carried out as prescribed in the regulations of this chapter, or by instructions from the Secretary of the Treasury, or the Commissioner of Customs in particular cases. In the absence of a governing regulation or instruction, supervision shall be direct and continuous, or by such occasional verification as the principal Customs field officer shall direct if such officer shall determine that less intensive supervision will ensure proper enforcement of the law and protection of the revenue. Nothing in this section shall be deemed to warrant any failure to direct and furnish required supervision or to excuse any failure of a party in interest to comply with prescribed procedures for obtaining any required supervision. (Sec. 22, 67 Stat. 520; 19 U.S.C. 1646a)

§ 161.2 Enforcement for other agencies.

(a) *Laws enforced by Customs Service for administering agencies.* Some of the laws enforced in whole or in part by the Customs Service for administering agencies are:

(1) Importations and exportations of arms, ammunition, implements of war, helium gas, and other munitions of war are governed by laws administered by the Bureau of Alcohol, Tobacco, and Firearms and Department of State; **[TD 78-329]**

(2) Importations and exportations of controlled substances are governed by laws administered by the Bureau of Narcotics and Dangerous Drugs of the Department of Justice;

(3) [Reserved] **[TD 76-21.]**

(4) Importations and exportations of atomic energy source material, fissionable material, and equipment and devices for utilizing or producing fissionable material are subject to laws administered by the Atomic Energy Commission; and

(5) The exportation of articles, other than those previously mentioned herein, are subject to requirements of laws administered by the Department of Commerce.

(b) *Seizure for violation of law.* When articles are imported or are intended to be, are being, or have been exported from the United States in violation of law, such articles and any vessel, vehicle, or aircraft knowingly used in their transportation shall be seized and proceeded against. (Sec. 5(b), 40 Stat. 415, as amended, 62 Stat. 716, sec. 502, 68 Stat. 1140, sec. 1, 40 Stat. 223, as amended, sec. 4, 48 Stat. 340, secs. 4, 7, 60 Stat. 759, 764, sec. 414, 68 Stat. 848, as amended; 12 U.S.C. 95a, 18 U.S.C. 545, 19 U.S.C. 1595(a), 22 U.S.C. 401, 31 U.S.C. 443, 42 U.S.C. 1804, 1807, 22 U.S.C. 1934)

§ 161.3 Prosecution for violation of Customs laws.

When there is a seizure or other violation of the Customs laws which requires legal proceedings by civil or criminal action, the district director or special agent in charge of the area involved shall furnish a report to the United States attorney in accordance with section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603). Action shall be taken under section 545, title 18, United States Code, only when there is clear indication of a violation of some specific provision of law. (Sec. 603, 46 Stat. 754, as amended, sec. 1, 62 Stat. 716; 18 U.S.C. 545, 19 U.S.C. 1603)

§ 161.4 Bribery of Customs officers and employees.

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a Customs officer or employee with the intent to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the United States attorney for prosecution under section 201, title 18, United States Code. (Sec. 1, 76 Stat. 1119, as amended; 18 U.S.C. 201)

§ 161.5 Compromise of Government claims.

(a) *Offer.* An offer made pursuant to section 617, Tariff Act of 1930, as amended (19 U.S.C. 1617), in compromise of a Government claim arising under the Customs laws and the terms upon which it is made shall be stated in writing addressed to the Commissioner of Customs. The offer shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(b) *Deposit of specific sum tendered.* No offer in which a specific sum of money is tendered in compromise of a Government claim under the Customs laws will be considered by the Commissioner of Customs until due notice is received that such sum has been properly deposited in the name of the person submitting the offer with the Treasurer of the United States or a Federal Reserve bank. A proponent at a distance from a Federal Reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit. If the offer is rejected, the money will be returned to the proponent. (Sec. 617, 46 Stat. 757, as amended; 19 U.S.C. 1617)

Subpart B—Informer's Compensation

§ 161.11 Claim for compensation by informer.

(a) *Persons not officers of United States.* Any person not an officer of the United States who, in accordance with section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), detects, seizes, and reports any vessel, vehicle, merchandise, or baggage subject to siezure and forfeiture under the Customs or navigation laws, or who furnishes original information concerning any fraud upon the Customs revenue or a violation of the Customs or navigation laws perpetrated or contemplated, may file a claim for an award of compensation. Any Customs officer to whom the information is furnished shall advise the informant of his right to claim such an award.

(b) *Officer of the United States.* Officers of the United States are precluded by section 620, Tariff Act of 1930 (19 U.S.C. 1620) from directly or indirectly receiving or contracting for any portion of a compensation award. (Sec. 619, 620, 46 Stat. 758, as amended; 19 U.S.C. 1619, 1620)

§ 161.12 Filing of claim.

A claim for an award of compensation shall be filed in duplicate on Customs Form 4623 with the district director, but any Customs officer may receive such a claim for transmittal to the district director. Additional copies of the claim required by the district director shall be furnished on demand. Application may be made directly to the Commissioner of Customs where for any reason a claim has not been transmitted by the district director to the Commissioner. No claim for compensation shall be forwarded to the Commissioner unless a sum of not less than $5 is available for an award. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.13 Limitation on claims.

Claimants may be paid 25 per centum of the net amount recovered from duties withheld, or any fine, penalty, or forfeiture incurred, but such amount shall not exceed $50,000 regardless of the number of recoveries growing out of the information furnished. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.14 Payment of claims.

No claim under section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), shall be paid until the amount recovered has been deposited in the proper account. Claims shall not be paid out of the proceeds of sale. (Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619).

§ 161.15 Informer's name confidential.

The informer's name and address shall be kept confidential. No files nor information concerning the informer shall be permitted to get into the possession of unauthorized persons. No information shall be revealed which might aid the offenders in identifying the informer.

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

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Authority: 80 Stat. 379, R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 1624. The provisions of subpart B also issued under sec. 595, 46 Stat. 752, as amended; 19 U.S.C. 1595, unless otherwise noted.

Source: T.D. 72-211, 37 FR 16486, Aug. 15, 1972, unless otherwise noted.

§ 162.0 Scope.

This part sets forth the recordkeeping requirements and procedures governing the examination of records and persons in connection with any audit or other inquiry or investigation conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duties and taxes due or which may be due, for determining liability for fines, penalties, and forfeitures, or for insuring compliance with the laws and regulations administered by Customs. It also contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. It also contains provisions for Customs enforcement of the controlled substances, narcotics and marihuana laws. Provisions relating to petitions for remission or mitigation of fines, penalties, and forfeitures incurred are contained in Part 171 of this chapter. **[TDs 72-211, 79-159.]**

Subpart A—Recordkeeping, Inspection, Examination, and Search

§ 162.1 [Reserved] [TD 79-159.]

§ 162.1a Definitions.

When used in § § 162.1a through 162.1i, the following terms shall have the meaning indicated:

(a) *Records.* "Records" means:

(1) Statements, declarations, books, papers, correspondence, accounts, technical data, automated record stor-

age devices (e.g., magnetic discs and tapes), computer programs necessary to retrieve information in a usable form, and other documents which:

(i) Pertain to any importation, or to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the entry of merchandise;

(ii) Are of the type normally kept in the ordinary course of business; and

(iii) Are sufficiently detailed:

(A) To establish the right to make entry,

(B) To establish the correctness of any entry,

(C) To determine the liability of any person for duties and taxes due, or which may be due, the United States,

(D) To determine the liability of any person for fines, penalties, and forfeitures, and

(E) To determine whether the person has complied with the laws and regulations administered by the Customs Service; and

(2) Any other documents required under laws or regulations administered by the Customs Service.

(b) *Third-party recordkeeper.* "Third-party recordkeeper" means any Customs broker, attorney or accountant.

(c) *Summons.* "Summons" means any summons issued under this subpart which requires either the production of records or the giving of testimony, or both.

(d) *Technical data.* "Technical data" includes records, diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, or other media. **[TD 79-159.]**

§ 162.1b Recordkeeping.

(a) *Who must keep records.* Any owner, importer, consignee, or their agent who imports, or knowingly causes to be imported, any merchandise into the Customs territory of the United States, shall make and keep records as defined in § 162.1a(a).

(b) *Domestic transaction excluded.* A person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported and is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise. **[TD 79-159.]**

§ 162.1c Record retention period.

Unless a different period of time is provided elsewhere in the chapter with respect to a specific type of record, any record required or made under § 162.1b shall be kept for 5 years from the date of entry of the merchandise. **[TD 79-159.]**

§ 162.1d Examination of records and witnesses.

(a) *Examination.* During the course of any inquiry or investigation initiated:

(1) To determine the correctness of any entry, the liability of any person for duties and taxes due or which may be due, or any liability for fines, penalties and forfeitures, or

(2) To insure compliance with the laws and regulations administered by the Customs Service, any Customs officer, during normal business hours and, to the extent possible, at a time mutually convenient to the parties, may examine, or cause to be examined, any relevant records, statements, declarations, or other documents by providing the person with reasonable notice, either orally or in writing, which describes the records with reasonable specificity.

(b) *Summons.* During the course of any inquiry or investigation initiated for the reasons set forth in paragraph (a) of this section, the Commissioner of Customs or his designee, but no designee of the Commissioner below the rank of district director (area director in region II) or special agent in charge, upon reasonable notice, may issue a summons to:

(1) Any person who imported merchandise, or knowingly caused merchandise to be imported,

(2) Any officer, employee, or agent of a person who imported merchandise or knowingly caused merchandise to be imported,

(3) Any person having possession, custody, or care of records relating to importations, or

(4) Any other person deemed proper to either produce records or give testimony, or both.

(c) *Transcript of testimony under oath.* Testimony of any person taken under paragraph (a) or (b) of this section may be taken under oath and when so taken shall be transcribed. When testimony is transcribed, a copy shall be made available on request to the witness unless for good cause shown the issuing officer determines under 5 U.S.C. 555 that a copy should not be provided. In that event, the witness shall be limited to inspection of the official transcript of the testimony. The testimony or transcript may be in the form of a written statement under oath provided by the person examined at the request of a Customs officer. **[TD 79-159.]**

§ 162.1e Contents of summons.

(a) *Summons for person.* Any summons issued under § 162.1d(b) to compel appearance shall state:

(1) The name, title, and telephone number of the Customs officer before whom the appearance shall take place;

(2) The address where the person shall appear, not to exceed 100 miles from the place where the summons was served;

(3) The time of appearance; and

(4) The name, address, and telephone number of the Customs officer issuing the summons.

(b) *Summons of records.* If the summons requires the production of records, the summons, in addition to containing the information required by paragraph (a) of this section, shall describe the records with reasonable specificity. **[TD 79-159.]**

§ 162.1f Service of summons.

(a) *Who may serve.* Any Customs officer is authorized to serve a summons issued under this part.

(b) *Method of service*—(1) *Natural person.* Service upon a natural person shall be made by personal delivery.

(2) *Corporation, partnership, or association.* Service shall be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivery to an officer, managing or general agent, or any other agent authorized to receive service of process.

(c) *Certificate of service.* On the hearing of an application for the enforcement of the summons, the certificate of service signed by the person serving the summons is prima facie evidence of the facts it states. **[TD 79-159.]**

§ 162.1g Third-party recordkeeper.

(a) *Notice.* Except as provided by paragraph (f) of this section, if a summons issued under § 162.1d to a third-party recordkeeper requires the production of records or testimony relating to import transactions of any person other than the person summoned, and the person is identified in the description of the records in the summons, notice of the summons shall be provided the person identified in the description of the records contained in the summons.

(b) *Time of notice.* Notice of service of summons required by paragraph (a) of this section should be provided by the issuing officer immediately after service of summons is obtained under § 162.1f, but in no event shall notice be given less than 10 business days before the date set in the summons for the examination of records or persons.

(c) *Contents of notice.* The issuing officer shall insure that any notice issued under this section includes a copy of the summons and contains the following information:

(1) That compliance with the summons may be stayed if written direction is given by the person receiving notice to the person summoned not to comply with the summons.

(2) That a copy of the direction not to comply and a copy of the summons shall be mailed by registered or certified mail to the person summoned at the addresses in the summons and to the issuing Customs officer.

(3) That the actions under paragraphs (c)(1) and (c)(2) of this section shall be accomplished not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given.

(d) *Service of notice.* The issuing officer shall serve the notice required by paragraph (a) of this section in the same manner as is prescribed in § 162.1f for the service of a summons, or by certified or registered mail to the last known address of the person entitled to notice.

(e) *Examination precluded.* If notice is required by this section, no records may be examined and no testimony may be taken before the date fixed in the summons as the date to examine the records or to take the testimony. If the owner, importer, consignee, or their agent, or any other person concerned issues a stay of the summons, no examination shall take place, and no testimony shall be taken, without the consent of the person staying compliance, or without an order issued by a U.S. district court.

(f) *Exceptions to notice*—(1) *Personal liability for duties and taxes.* This section does not apply to any summons served on the person, or any officer or employee of the person, with respect to whose liability for duties and taxes the summons is issued.

(2) *Verification.* This section does not apply to any summons issued to determine whether or not records of the import transactions of an identified person have been made or kept.

(3) *Court order.* Notice shall not be given if a U.S. district court determines, upon petition by the issuing Customs officer, that reasonable cause exists to believe giving notice may lead to an attempt:

(i) To conceal, destroy, or alter relevant records;

(ii) To prevent the communication of information from other persons through intimidation, bribery, or collusion; or

(iii) To flee to avoid prosecution, testifying, or production of records. **[TD 79-159.]**

§ 162.1h Enforcement of summons.

Whenever any person does not comply with a summons issued under § 162.1d, the issuing officer may request the appropriate U.S. attorney to seek an order requiring compliance from the U.S. district court for the district in which the person is found or resides or is doing business. **[TD 79-159.]**

§ 162.1i Failure to comply with court order.

(a) *Importations prohibited.* If a person fails to comply with a court order enforcing the summons and is adjudged guilty of contempt, the Commissioner of Customs, with the approval of the Secretary of the Treasury, for so long as that person remains in contempt,

(1) May prohibit importation of merchandise by that person, directly or indirectly, or for that person's account, and

(2) May withhold delivery of merchandise imported by that person, directly, or indirectly, or for that person's account.

(b) *Sale of merchandise.* If any person remains in contempt for more than 1 year after the Commissioner issues instructions to withhold delivery, the merchandise shall be considered abandoned, and shall be sold at public auction or otherwise disposed of in accordance with Subpart E of this part. **[TD 79-159.]**

§ 162.2 [Reserved] [TD 79-159.]

§ 162.3 Boarding and search of vessels.

(a) *General authority.* A Customs officer, for the purpose of examining the manifest and other documents and papers and examining, inspecting and searching the vessel, may at any time go on board:

(1) Any vessel at any place in the United States or within the Customs waters of the United States;

(2) Any American vessel on the high seas, when there is probable cause to believe that such vessel is violating or has violated the laws of the United States; or

(3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703-1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the

absence of a special arrangement with the foreign government concerned.

(b) *Search of army or navy transport.* If the district director or special agent in charge believes that sufficient grounds exist to justify a search of any army or navy transport, the facts shall be reported to the commanding officer or master of such transport with a request that he cause a full search to be made, and advise the district director or special agent in charge of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the district director or special agent in charge believes that sufficient grounds exist to justify the continuance of Customs supervision of the vessel, the commanding officer of the vessel shall be advised accordingly. (Secs. 455, 581, 46 Stat. 716, as amended, 747, as amended; 19 U.S.C. 1455, 1581)

§ 162.4 Search for letters.

A Customs officer may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to the orders of the postal authorities. (Secs. 604, 605, 84 Stat. 728; 39 U.S.C. 604, 605)

§ 162.5 Search of arriving vehicles and aircraft.

A customs officer may stop any vehicle and board any aircraft arriving in the United States from a foreign country for the purpose of examining the manifest and other documents and papers and examining, inspecting, and searching the vehicle or aircraft. (Sec. 581, 46 Stat. 747, as amended, sec. 1109, 72 Stat. 799, as amended; 19 U.S.C. 1581, 49 U.S.C. 1509)

§ 162.6 Search of persons, baggage, and merchandise.

All persons, baggage, and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection and search by a Customs officer. District directors and special agents in charge are authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended (19 U.S.C. 1467), of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the vessel at another port or place in the United States or the Virgin Islands, if such action is deemed necessary or appropriate. (Secs. 461, 496, 46 Stat. 717, 727, as amended, sec. 11, 52 Stat. 1083, as amended; 19 U.S.C. 1461, 1467, 1496)

§ 162.7 Search of vehicles, persons, or beasts.

A Customs officer may stop, search, and examine any vehicle, person, or beast, or search any truck or envelope wherever found, in accordance with section 3061 of the Revised Statutes (19 U.S.C. 482).

Subpart B—Search Warrants

§ 162.11 Authority to procure warrants.

Customs officers are authorized to procure search warrants under the provisions of section 595, Tariff Act of 1930, as amended (19 U.S.C. 1595). However, a Customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may seize such merchandise without a warrant. If merchandise is in a building on the boundary, see § 123.71 of this chapter.

§ 162.12 Service of search warrant.

A search warrant shall be served in person by the officer to whom it is issued and addressed. In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the premises, or in the absence of any person, the copy shall be left in some conspicuous place on the premises searched.

§ 162.13 Search of rooms not described in warrant.

When a Customs officer is acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

§ 162.14 Removal of letters and other documents.

Customs officers to whom a warrant is issued to search for and seize merchandise are without authority to remove letters and other documents and records, unless they themselves are instruments of crime and are seized as an incident to a lawful arrest.

§ 162.15 Receipt for seized property.

A receipt for property seized under a search warrant shall be left with the person in charge or possession of the premises, or in the absence of any person, the receipt shall be left in some conspicuous place on the premises searched.

Subpart C—Seizures

§ 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Property may be seized, if available, by any Customs officer who has reasonable cause to believe that any law or regulation enforced by the Customs Service has been violated, by reason of which the property has become subject to seizure or forfeiture. This paragraph does not authorize seizure when seizure or forfeiture is restricted by law or regulation (see, for example, § 162.75), nor does it authorize a remedy other than seizure when seizure or forfeiture is required by law or regulation. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized. **[TDs 77-136, 79-160.]**

(b) *Seizure by persons other than Customs officers.* The district director may adopt a seizure made by a person other than a Customs officer if such district director has reasonable cause to believe that the property is subject to forfeiture under the Customs laws.

(c) *Seizure by State official.* If a duly constituted State official has seized any merchandise, vessel, aircraft, vehicle, or other conveyance under provisions of the statutes of such State, such property shall not be seized by a Customs officer unless the property is voluntarily turned over to him to be proceeded against under the Federal statutes. (R.S. 3061, secs. 581, 582, 602, 46 Stat. 747, as amended, 748, 754, as amended; 19 U.S.C. 482, 1581, 1582, 1602)

§ 162.22 Seizure of conveyances.

(a) *General applicability.* If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of any law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, the officer shall seize such conveyance and arrest any person engaged in such violation. Common carriers are exempted from seizure except under certain specified conditions as provided for in section 594, Tariff Act of 1930 (19 U.S.C. 1594).

(b) *Facilitating importation contrary to law.* Every vessel, vehicle, animal, aircraft, or other conveyance which is being or has been used in, or to aid or facilitate, the importation, bringing in, unlading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being, or has been introduced or attempted to be introduced into the United States contrary to law, shall be seized and held subject to forfeiture, and any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) *Common carrier clearance.* Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930 (19 U.S.C. 1594), shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) *Retention of vessel or vehicle pending penalty payment.* If a penalty is incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the district director under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.

(e) *Maritime Administration vessels; exemption from penalty.* (1) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the Customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(2) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment. (Sec. 1, 62 Stat. 717, secs. 459, 460, 594, 46 Stat. 717, as amended, 751, secs. 1, 3-8, 49 Stat. 517, 518, 519, as amended, 520; 18 U.S.C. 546, 19 U.S.C. 1459, 1460, 1594, 1701, 1703-1708)

Subpart D—Procedure When Fine, Penalty, or Forfeiture Incurred

§ 162.31 Notice of fine, penalty, or forfeiture incurred.

(a) *Notice.* Written notice of any fine or penalty incurred as well as any liability to forfeiture shall be given to each party that the facts of record indicate has an interest in the claim or seized property. The notice shall also inform each interested party of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), or any other applicable statute authorizing mitigation of penalties or remission of forfeitures, in accordance with Part 171 of this chapter. The notice shall inform any interested party in a case involving forfeiture of seized property that unless the petitioner provides an express agreement to defer judicial or administrative forfeiture proceedings until completion of the administrative process, the case will be referred promptly to the U.S. attorney for institution of judicial proceedings, or summary forfeiture proceedings will be begun. **[TD 79-160.]**

(b) *Contents of notice.* The notice shall contain the following: **[TD 78-38.]**

(1) The provisions of law alleged to have been violated;

(2) A description of the specific acts or omissions forming the basis of the alleged violations;

(3) If the alleged violations involve the entry or attempted entry of merchandise,

(i) A description of the merchandise and the circumstances of its entry or attempted entry, and

(ii) The identity of each entry, if specific entries are involved; and

(4) If the alleged violations involve a loss of revenue,

(i) The total loss of revenue and how it was computed, and

(ii) The loss of revenue attributable to each entry, if readily susceptible to calculation.

(c) *Demand for deposit in case of smuggled articles of small value.* In the case of smuggled articles of small value, demand shall be made for immediate deposit of an amount equivalent to the domestic value of the articles on account of the liability to a penalty incurred as distinct from liability of the goods to forfeiture. Such sum shall be deposited whether or not a petition for relief is filed in accordance with Part 171 of this chapter. A demand for deposit need not be made in connection with any liability incurred by the master of a vessel under the provisions of section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453).

§ 162.32 Where petition for relief not filed.

(a) *Fines, penalties, and forfeitures.* If any person who is liable for a fine, penalty, or claim for a monetary amount, or who has an interest in property subject to forfeiture, fails to petition for relief under Part 171 of this chapter, or fails to pay or to arrange to pay the fine or penalty within 60 days from the mailing date of the violation notice provided in § 162.31 (unless additional time is authorized for filing a petition, as specified below), the district director, after required collection action, if appropriate, shall refer the case promptly to the U.S. attorney unless the Commissioner of Customs expressly authorizes other action. If a penalty is assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C.1592), and fewer than 180 days remain from the date of the penalty notice before the statute of limitations may be asserted as a defense, the district director may specify in the notice a reasonable period of time shorter than 60 days, but not less than 7 days, for the filing of a petition for relief. However, if there is at least 1 year before the statute of limitations may be asserted as a defense, a district director may extend the time for filing a petition, upon the request of the person who is liable for a fine or penalty, or who has an interest in property subject to forfeiture, in the following situations: **[TD 79-160.]**

(1) The person is seriously ill or is otherwise incapacitated and is unable to prepare or to assist in the preparation of a petition.

(2) The person is absent from the United States or was absent from the United States for 30 days or more during the 60-day filing period.

(3) Necessary evidence or a necessary witness is not available through no fault of the person.

(4) The case involves a complex legal or factual problem other than a classification, appraisement, or similar issue. Examples of the type of problem intended to be covered by this category are the need to examine voluminous records to learn the facts on which to base a petition or the need to determine legal responsibilities in a case involving numerous parties or numerous violations.

(5) The existence of unusual circumstances, such as a fire or other disaster, affecting the business of the person which requires the full attention of that person in order to overcome the effects of the unusual circumstances.

(6) Any other situation in which the district director determines that an extension of time for filing a petition is justified.

(b) *Appraised value of seized property exceeds $10,000.* If the appraised value of seized property exceeds $10,000 and neither a petition for relief in accordance with Part 171 of this chapter, nor an offer to pay the domestic value as provided for in § 162.44, is made within 60 days (unless additional time has been authorized under § 162.32(a)), the district director shall refer the case promptly to the U.S. attorney for the judicial district in which the seizure was made. (Secs. 603, 610, 46 Stat. 754, as amended, 755, as amended; 19 U.S.C. 1603, 1610) **[TDs 78-394, 79-160.]**

Subpart E—Treatment of Seized Merchandise

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement subject to forfeiture.

(a) *Election to proceed against merchandise or value when forfeiture incurred.* (1) When merchandise or the value thereof is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), including any article seized under the provisions of section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), the district director may elect to proceed against the merchandise or its domestic value. **[TD 77-136.]**

(2) If the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchandise is not available for seizure, the district director shall proceed to recover the domestic value.

(3) In the case of a violation resulting solely in an actual or potential loss of revenue, the merchandise shall only be seized if the district director is satisfied that: **[TD 77-148.]**

(i) The violator appears to be insolvent or may soon become insolvent;

(ii) The violator or his assets appear to be beyond the jurisdiction of the United States; or

(iii) For some other reason, a claim for the domestic value of the merchandise would not protect the revenue.

(b) *Claim for domestic value unpaid.* If a claim for domestic value made by the district director is not paid or settled as prescribed in this part or in Part 171 of this chapter, the district director, after required collection action, shall refer the case promptly to the U.S. attorney.

(c) *Liability for duties; liquidation of entries.* (1)(i) When an entry is the subject of an investigation for possible violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or of a penalty action established under that section, the district director, subject to the provisions of paragraph (c)(1)(ii) of this section, may liquidate the entry and collect duties before the conclusion of the investigation or final dispostion of the penalty action if he determines that liquidation would be in the interest of the Government.

(ii)(A) An entry not liquidated within 1 year from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless the time for liquidation is extended by the district director because—

(*1*) Information needed by Customs for the proper appraisement or classification of the merchandise is not available.

(*2*) The importer, his consignee, or agent requests an extension and demonstrates good cause why the extension should be granted, or

(*3*) The 1-year liquidation period is suspended as required by statute or court order.

(B) An entry not liquidated within 4 years from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless liquidation continues to be suspended by statute or court order. In that event, the entry shall be liquidated within 90 days after removal of the suspension.

(C) The district director promptly shall notify the importer or consignee concerned and any authorized agent and surety of the importer or consignee in writing of any extension or suspension of the liquidation period.

(2) When merchandise not covered by an entry is subject to section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise.

(3) Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been forfeited. (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).) **[TDs 76-112, 79-160.]**

§ 162.42 Proceedings by libel.

If seizure is made under a statute which provides that the property may be seized and proceeded against by libel, the summary forfeiture procedures set forth in §§ 162.45, 162.46, and 162.47 do not apply. Such cases shall be referred to the U.S. attorney. The district director may request the U.S. attorney to seek a decree of forfeiture providing for delivery of the property to the district director for sale or other appropriate disposition, if such property is not to be retained for official use.

§ 162.43 Appraisement.

(a) *Property under seizure and subject to forfeiture.* Seized property shall be appraised as required by section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). The term "domestic value" as used therein shall mean the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(b) *Property not under seizure.* The basis for a claim for forfeiture value or for an assessment of a penalty relating to the forfeiture value of property not under seizure is the domestic value as defined in paragraph (a) of this section, except that the value shall be fixed as of the date of the violation. In the case of entered merchandise, the date of the violation shall be the date of the entry, or the date of the filing of the document, or the commission of the act forming the basis of the claim, whichever is later. **[TD 79-160.]**

(c) *Prohibited importation.* For the purpose of condemnation or forfeiture only, the value of all seized merchandise the importation of which is prohibited, shall be held not to exceed $10,000. However, seized merchandise, the importation of which is absolutely prohibited, shall be appraised at its foreign-market value, since such merchandise has no domestic value. (Secs. 606, 608, 46 Stat. 754, as amended, 755 as amended; 19 U.S.C. 1606, 1608) **[TD 78-394.]**

§ 162.44 Released on payment of appraised value.

(a) *Value exceeding $50,000.* Any offer to pay the appraised domestic value of seized merchandise in order to obtain the immediate release of property which was seized under the Customs laws and exceeding $50,000 in appraised domestic value, or which was seized under the navigation laws, shall be in writing, addressed to the Commissioner of Customs, and signed by the claimant or his attorney. It shall be submitted in duplicate to the district director for the district in which the property was seized. Proof of ownership shall be submitted with the application if the facts in the case make such action necessary. **[TD 74-276.]**

(b) *Value not over $50,000*—(1) *Authority to accept offer.* The district director is authorized to accept a written offer pursuant to section 614, Tariff Act of 1930, as amended (19 U.S.C. 1614), to pay the appraised domestic value of property seized under the Customs laws and to release such property if:

(i) The appraised domestic value of the seized property does not exceed $50,000;

(ii) The district director is satisfied that the claimant has, in fact, a substantial interest in the property; and **[TD 74-276.]**

(iii) Entry of the seized property into the commerce of the United States is not prohibited by law. **[TD 74-276.]**

(2) *Referral of offer.* The district director shall refer to the Commissioner of Customs any offer where it appears that the claimant does not have a substantial interest in the seized property or where it appears it would not be in the best interest of the United States to accept.

(c) *Retention of property.* The district director shall retain custody of the property pending payment of the amount of the offer when the application is approved. (Sec. 614, 46 Stat. 757, as amended; 19 U.S.C. 1614)

§ 162.45 Summary forfeiture where value not over $10,000: Property other than Schedule I controlled substances. Notice of seizure and sale.

(a) *Contents.* The notice required by section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intent to forfeit and sell or otherwise dispose of according to law property not exceeding $10,000 in value shall: **[TD 78-394.]**

(1) Describe the property seized and in the case of motor vehicles, specify the motor and serial numbers;

(2) State the time, cause, and place of seizure;

(3) State that any person desiring to claim the property must appear at a designated place and file with the district director within 20 days from the date of the first publication of the notice a claim to such property and a bond in the sum of $250, in default of which the property will be disposed of in accordance with the law; and

(4) State the name and place of residence of the person to whom any vessel or merchandise seized for forfeiture under the navigation laws belongs or is consigned, if that information is known to the district director.

(b) *Publication.* (1) If the appraised value of any property in one seizure from one person other than Schedule I controlled substances (as defined in 21 U.S.C. 802(6)) exceeds $250, the notice shall be published in a newspaper of general circulation in the Customs district and the judicial district in which the property was seized for at least three successive weeks.

(2) In all other cases, except for Schedule I controlled substances (see § 162.45a), the notice shall be published by posting in a conspicuous place accessible to the public in the customhouse nearest the place of seizure and in the customhouse at the headquarters port for the Customs district, with the date of posting noted thereon, and shall be kept posted for at least three successive weeks. Articles of small value of the same class or kind included in two or more seizures shall be advertised as one unit. **[TD 82-89.]**

(c) *Delay of publication.* Publication of the notice of seizure and intent to summarily forfeit and dispose of goods valued not over $10,000 may be delayed for a period not to exceed 60 days in those cases where the district director has reason to believe that a petition for administrative relief in accord with Part 171 of this chapter will be filed.

§ 162.45a Summary forfeiture of Schedule I controlled substances.

The Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801) provides that all controlled substances in Schedule I (as defined in 21 U.S.C. 802(6) and 812) that are possessed, transferred, sold, or offered for sale in violation of the Act shall be deemed contraband and seized and summarily forfeited to the United States (21 U.S.C. 881(f)). By reference, the Controlled Substances Import and Export Act (21 U.S.C. 951) incorporates this contraband forfeiture provision. See 21 U.S.C. 965. Accordingly, in the case of a seizure of Schedule I controlled substances, the appropriate Regional Commissioner of Customs shall contact the appropriate Drug Enforcement Administration official responsible for issuing permits authorizing the importation of such substances (see 21 CFR 1312). If upon inquiry the Regional Commissioner or his designee is notified that no permit for lawful importation has been issued, he shall declare the seized substances contraband and forfeited pursuant to 21 U.S.C. 881(f). Inasmuch as such substances are deemed contraband, the notice procedures set forth in section 162.45 are inapplicable to the disposition of Schedule I substances.

§ 162.46 Summary forfeiture where value not over $10,000; Disposition of goods.

(a) *General.* If no petition for relief from the forfeiture is filed in accordance with the provisions of Part 171 of this chapter, or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609) or section 491(b), Tariff Act of 1930, as amended (19 U.S.C. 1491(b)). **[TDs 78-394, 79-159.]**

(b) *Articles required to be inspected by other Government agencies.* Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the laws and regulations of that agency, and if found not to meet such requirements, they shall be destroyed forthwith.

(c) *Sale*—(1) *General.* If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 127 of this chapter. The district director may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses. **[TD 77-12.]**

(2) *Transfer to another district for sale.* Property shall be moved to and sold in such other Customs district as the Commissioner of Customs may direct pursuant to the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611), if:

(i) The laws of a State in which property is seized and forfeited prohibit the sale of such property; or

(ii) The Commissioner is of the opinion that the sale of forfeited property may be made more advantageously in another Customs district.

(d) *Destruction.* If, after summary forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale, the district director may order the destruction of the property. Any vessel or vehicle summarily forfeited for violation of any law respecting the Customs revenue may be destroyed in lieu of the sale thereof when such destruction is authorized by the Commissioner of Customs to protect the revenue.

(e) *Disposition of distilled spirits, wines, and malt liquor.* In addition to disposition by sale or destruction as provided for by this section, distilled spirits, wines, and malt liquor may be delivered:

(1) To any Government agency the Commissioner of Customs or his designee determines has a need for these articles for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency, or

(2) By gift to any charitable institution the Commissioner of Customs or his designee determines has a need for the articles for medical purposes. (Secs. 609, 611, 46 Stat. 755, as amended, sec. 5, 49 Stat. 519; 19 U.S.C. 1609, 1611, 1705 (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[T.D. 72-211, 37 FR 16486, Aug. 15, 1972, as amended by T.D. 72-12, 41 FR 56629, Dec. 29, 1976] **[TD 79-159.]**

§ 162.47 Claim for property subject to summary forfeiture.

(a) *Filing of claim.* Any person desiring to claim under the provisions of section 608, Tariff Act of 1930 (19 U.S.C. 1608), seized property not exceeding $10,000 in value and subject to summary forfeiture, shall file a claim to such property with the district director within 20 days from the date of the first publication of the notice prescribed in section 162.45. **[TD 78-394]**

(b) *Bond for costs.* Except as provided in paragraph (e) of this section, the bond in the penal sum of $250 required by section 608, Tariff Act of 1930, to be filed with a claim for seized property shall be on Customs Form 4615. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond, to wit:

____

____

The foregoing list is correct.

____
Claimant

Attest: ______________________

____

[TD 81-1].

(c) *Claimant not entitled to possession.* The filing of a claim and the giving of a bond if required, pursuant to section 608, Tariff Act of 1930, shall not be construed to entitle the claimant to possession of the property. Such action only stops the summary forfeiture proceeding. **[TD 81-1.]**

(d) *Report to the U.S. attorney.* When the claim and bond if required, are filed within the 20-day period, the district director shall report the case to the U.S. attorney for the institution of condemnation proceedings. (Sec. 608, 46 Stat. 755, as amended; 19 U.S.C. 1608) **[TD 81-1.]**

(e) *Waiver of bond.* Upon satisfactory proof of financial inability to post the bond, the district director shall waive the bond requirement for any person who claims an interest in the seized property. **[TD 81-1.]**

§ 162.48 Summary sale of perishable and other property valued not over $10,000.

Seized property which is perishable or otherwise enumerated in section 612, Tariff Act of 1930, as amended (19 U.S.C. 1612), and is valued at not over $10,000 shall be advertised for sale and sold at public auction at the earliest possible date. The district director shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable. This notice shall be of sale only and not notice of seizure and intent to forfeit. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner as the seized property would have been subject to such claims. (Sec. 612, 46 Stat. 756, as amended; 19 U.S.C. 1612) **[TD 78-394]**

§ 162.49 Forfeiture by court decree.

(a) *Report to the U.S. attorney.* When it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, the district director or the special agent in charge of the area involved shall furnish a report to the U.S. attorney in accordance with the provisions of section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603).

(b) *Bonding of seized property.* When a claimant desires to file a bond for the release of seized property which is the subject of a court proceeding, he shall be referred to the U.S. attorney. The Government is entitled to recover the penal sum of the bond if forfeiture is then decreed. (Sec. 201, 72 Stat. 1412; 26 U.S.C. 5688(c))

§ 162.50 Forfeiture by court decree: Disposition.

(a) *Sale.* Forfeited property decreed by the court for sale or disposition by the district director shall be disposed of in the same manner as property summarily forfeited. (See § 162.46.)

(b) *Transfer to other districts for sale.* If the laws of the State in which property is seized and forfeited prohibit the

sale of such property, or if the Commissioner of Customs is of the opinion that the sale of forfeited property may be made more advantageously in another Customs district, application may be made to the court to permit disposition in accordance with the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611). If the court permits such disposition, the property shall be moved to and sold in such other district as the Commissioner may direct provided it has been cleared for sale.

(c) *Destruction*—(1) *Proceeds of sale not sufficient*. Property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or the Commissioner of Customs for disposition in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611).

(2) *For protection of the revenue*. Any vessel or vehicle forfeited under a decree of any court for violation of any law respecting the Customs revenue may be destroyed in lieu of sale when such destruction is authorized by the Commissioner of Customs to protect the revenue if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or Commissioner of Customs for disposition under the provisions of 19 U.S.C. 1705. (Sec. 611, 46 Stat. 755, sec. 5, 49 Stat. 519; 19 U.S.C. 1611, 1705)

§ 162.51 Disposition of proceeds of sale of property seized and forfeited other than under 19 U.S.C. 1592.

(a) *Order of payment of expenses incurred*. (1) *When application for remission and restoration is filed and approved*. Section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613), and § 171.41 of this chapter authorize the filing of an application for remission of the forfeiture and restoration of the proceeds from the sale of seized and forfeited property. If the application is filed within 3 months after the date of sale and is approved, the proceeds of the sale, or any part thereof, shall be restored to the applicant after deducting the following charges in the order named:

(i) Internal revenue taxes.

(ii) Marshal's fees and court costs.

(iii) Expenses of advertising and sale.

(iv) Expenses of cartage, storage, and labor. When the proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.

(v) Duties.

(vi) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(2) *When no application for remission and restoration is filed or the application is denied*. If no application for remission and restoration is filed within 3 months after the date of sale of seized and forfeited property, of if the application is denied, the proceeds of the sale shall be disbursed in the following order:

(i) Internal revenue taxes.

(ii) Marshal's fees and court costs.

(iii) Expenses of advertising and sale.

(iv) Expenses of cartage, storage, and labor, except that expenses incurred for Government labor and storage on Government-owned or leased property shall not be included. When the proceeds are insufficient to pay expenses of cartage, storage, and labor fully, they shall be paid pro rata.

(v) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(vi) The residue, if any, shall be deposited with the Treasurer of the United States as a customs or navigation fine. **[TD 79-160.]**

(b) *Transfer of seized and forfeited property to another Federal agency*. In the event that the seized and forfeited property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse Customs for the costs incurred in moving and storing the property from the date of seizure to the date of delivery. **[TD 79-160.]**

§ 162.52 Disposition of proceeds of sale of property seized and forfeited under 19 U.S.C. 1592.

(a) *Order of disposition of proceeds*. Section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613), provides for the disposition of the proceeds from the sale of property seized and forfeited under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), as provided for in § 162.75 of this part. Distribution shall be made in the following order:

(1) Internal revenue taxes.

(2) Marshal's fees and court costs.

(3) Expenses of advertising and sale.

(4) Expenses of cartage, storage, and labor. When proceeds are insufficient to pay these expenses fully, they shall be paid pro rata.

(5) Duties.

(6) Any sum due to satisfy a lien for freight, charges, or contributions in general average, provided notice of the lien has been given in the manner prescribed by law.

(7) The monetary penalty assessed under 19 U.S.C. 1592.

(8) The remaining proceeds, if any, shall be paid to the appropriate party-in-interest as provided in paragraph (b).

(b) *Determination of appropriate party-in-interest*. (1) If the property is subject to a judicial forfeiture proceeding and if it appears at the time of this proceeding that 2 or more parties claim an interest in the remaining proceeds referred to in paragraph (a)(8), each of the parties shall be joined in the proceeding so that the issue of proper distribution may be determined by the court.

(2) If the property is sold under the summary forfeiture procedure, or if the court has not specified the manner of distribution, the district director shall hold the excess proceeds for 3 months from the date of the sale to allow any party-in-interest to claim the proceeds.

(3) If there is one alleged violator and no petition has been filed for the excess proceeds by another person, the excess proceeds shall be disbursed to the person against whom the penalty was assessed.

(4) If there are 2 or more persons with claims or possible claims to the excess proceeds, the district director shall attempt to obtain a written agreement from the parties as to the distribution. If an agreement cannot be reached, the matter shall be referred to Customs Headquarters for determination.

(c) *Official use of seized and forfeited property.* If the seized and forfeited property has been authorized for official use, its retention or delivery shall be regarded as a "sale" for the purposes of section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613). The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of the type of property involved shall be distributed as provided in paragraphs (a) and (b). **[TD 79-160.]**

Subpart F—Controlled Substances, Narcotics, and Marihuana

§ 162.61 Importing and exporting controlled substances.

It shall be unlawful to import to or export from the United States any controlled substance or narcotic drug listed in schedules I through V of the Controlled Substances Act (Sec. 202, 84 Stat. 1247; 21 U.S.C. 812), unless there has been compliance with the provisions of said Act, the Controlled Substances Import and Export Act and the regulations of the Drug Enforcement Administration. (Secs. 1002, 1003, 1007, 84 Stat. 1285, 1286, 1288; 21 U.S.C. 952, 953, 957) **[TD 78-99.]**

§ 162.62 Permissible controlled substances on vessels, aircraft, and individuals.

Upon compliance with the provisions of the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951), and the regulations of the Drug Enforcement Administration (21 CFR 1301.28, 1311.27), controlled substances listed in schedules I through V of the Controlled Substances Act may be held: **[TD 78-99.]**

(a) On vessels engaged in international trade in medicine chests and dispensaries.

(b) In aircraft operated by an air carrier under a certificate or permit issued by the Federal Aviation Administration for stocking in medicine chests and first aid packets.

(c) By an individual where lawfully obtained for personal medical use or for administration to an animal accompanying him to enter or depart the United States. (Secs. 1002, 1006, 84 Stat. 1285, 1288; 21 U.S.C. 952, 956)

§ 162.63 Arrests and seizures.

Arrests and seizures under the Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801) and the Controlled Substances Import and Export Act (84 Stat. 1285, 21 U.S.C. 951), shall be handled in the same manner as other Customs arrests and seizures. However, Schedule I controlled substances (as defined in 21 U.S.C. 802(6) and 812) imported contrary to law shall be seized and forfeited in the manner provided in the Controlled Substances Act (21 U.S.C. 881(f)). See § 162.45a. (Sec. 511(d), 1016, 84 Stat. 1277, 1291; 21 U.S.C. 881(d), 966) **[TD 82-89.]**

§ 162.64 Custody of controlled substances.

All controlled substances seized by a Customs officer shall be delivered immediately into the custody of the district director in whose district the seizure is made, together with a full report of the circumstances of the seizure. (Sec. 511(d), 1016, 84 Stat. 1277, 1291; 21 U.S.C. 881(d), 966)

§ 162.65 Penalties for failure to manifest narcotic drugs or marihuana.

(a) *Cargo or baggage containing unmanifested narcotic drugs or marihuana.* When a package of regular cargo or a passenger's baggage otherwise properly manifested is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not shown as such on the manifest, the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed with respect to such narcotic drug or marihuana.

(b) *Unmanifested narcotic drugs.* When an unmanifested narcotic drug is found on board of, or after having been unladen from, a vessel or vehicle the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed. The penalty shall be applied without exception and without regard to any question of negligence or responsibility.

(c) *Notice and demand for payment of penalty.* A written notice and demand for payment of the penalty for failure to manifest incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be sent to the master of the vessel, or commander of the aircraft, or the person in charge of the vehicle and to the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible. In the case of a vessel, if bond has been given, the notice also shall be sent to each surety. When a petition for relief from such penalty has been filed in accordance with Part 171 of this chapter, and a decision has been made thereon, the district director shall send notice of such decision to the interested persons together with a demand for any payment required under the terms of such decision. **[TD 79-160.]**

(d) *Referral to the U.S. attorney.* If the penalty incurred under section 584, Tariff Act of 1930, as amended, is not paid, or a petition is not filed as provided in Part 171 of this chapter, or if payment is not made in accordance with the decision on a petition or a supplemental petition, the district director, after required collection action, shall refer the case to the U.S. attorney. **[TD 79-160.]**

(e) *Withholding clearance of vessel.* Where a penalty has been incurred under section 584, Tariff Act of 1930, as amended, for failure to manifest narcotic drugs, clearance of the vessel involved shall be withheld until the penalty is paid or a bond satisfactory to the district director is given for the payment thereof unless

(1) The narcotics were discovered in a passenger's baggage and the district director is satisfied that neither the master nor any of the officers nor the owner of the vessel knew or had any reason to know or suspect that the narcotics had been on board the vessel, or

(2) Prior authority for the clearance without payment of the penalty or the furnishing of the bond is obtained from the Bureau. (Sec. 584, 46 Stat. 748, as amended, secs. 1010, 1011, 84 Stat. 1290; 19 U.S.C. 1584, 21 U.S.C. 960, 961)

§ 162.66 Penalties for unlading narcotic drugs or marihuana without a permit.

In every case where a narcotic drug or marihuana is unladen without a permit, the penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall be assessed. Penalties shall be assessed under this

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section when a package of regular cargo or a passenger's baggage otherwise covered by a permit to unlade is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not specifically covered by a permit to unlade.

Subpart G—Special Procedures for Certain Violations

§ 162.70 Applicability.

(a) The provisions of this subpart apply only to fines, penalties, or forfeitures incurred for the following violations of the customs laws:

(1) Violations of sections 466 and 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1466, 1584(a)(1)), that occur after October 3, 1978, and

(2) Except as provided in paragraph (b) of this section, violations of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), with respect to which proceedings have commenced after December 31, 1978. For purposes of this subparagraph, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

(b) The provisions of this subpart do not apply to alleged intentional violations of 19 U.S.C. 1592 if the alleged violation—

(1) Involves television receivers that are the products of Japan and were or are the subject of antidumping proceedings (see § 153.46 of this chapter),

(2) Occurred before October 3, 1978, and

(3) Was the subject of a Customs investigation begun before October 3, 1978.

(c) The provisions of Subparts A through F of this part shall apply to the violations referred to in paragraph (a) of this section unless this subpart specifically provides otherwise. **[TD 79-160.]**

§ 162.71 Definitions.

When used in this subpart, the following terms shall have the meanings indicated:

(a) *Loss of duties.* "Loss of duties" means the duties of which the Government is or may be deprived by reason of the violation and includes both actual and potential loss of duties.

(1) *Actual loss of duties.* "Actual loss of duties" means the duties of which the Government has been deprived by reason of the violation in respect of entries on which liquidation had become final.

(2) *Potential loss of duties.* "Potential loss of duties" means the duties of which the Government tentatively was deprived by reason of the violation in respect of entries on which liquidation had not become final.

(b) *Noncommercial importation.* "Noncommercial importation" means merchandise imported by a traveler for an individual's personal or household use, or as a gift, but not imported for sale or other commercial purposes.

(c) *Clerical error.* "Clerical error" means an error in the preparation, assembly, or submission of a document which results when a person intends to do one thing but does something else. It includes, for example, errors in transcribing numbers, errors in arithmetic, and the failure to assemble all the documents in a record.

(d) *Mistake of fact.* "Mistake of fact" means an action based upon a belief by a person that the material facts are other than they really are; it can be that a fact exists but is unknown to the person, or that he believes something is a fact when in reality it is not. An action is not a mistake of fact if the erroneous belief is caused by the neglect of a legal duty. **[TD 79-160.]**

§ 162.72 Penalties under sections 466 and 584(a)(1), Tariff Act of 1930, as amended.

(a) *Foreign repairs and equipment purchases; election to proceed.* If the district director has reasonable cause to believe that a violation of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), has occurred, he may elect to proceed against the vessel or aircraft, or against the violator for forfeiture of a monetary amount up to the domestic value of the vessel or aircraft.

(b) *Lack of manifest or discrepancy in manifest.* The penalties for violation of section 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1584(a)(1)), are as follows:

(1) A penalty of $500 against the master of a vessel, the commander of an aircraft, or the person in charge of a vehicle bound to the United States who does not produce the manifest on demand.

(2) A penalty of $500 against the master of a vessel, the commander of an aircraft, the person in charge of a vehicle, or the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible for the discrepancy, if any merchandise described in the manifest is not found on board (a "shortage").

(3)(i) A penalty equal to the lesser of $10,000 or the domestic value of merchandise found on board of or after having been unladen from a vessel or vehicle, or

(ii) A penalty of $500 (see § 6.11, Customs Regulations) if merchandise is found on board of or after having been unladen from an aircraft—if the merchandise is not included or described in the manifest or does not agree with the manifest (an "overage").

(iii) Unmanifested merchandise beonging to or consigned to the master or crew of the vessel, the commander or crew of the aircraft, or to the owner or person in charge of the vehicle, also shall be subject to forfeiture.

The appropriate of these penalties may be assessed against the master or crew of the vessel, the commander or crew of the aircraft, the person in charge of the vehicle, the owner of the vessel, aircraft, or vehicle, or any person directly or indirectly responsible for the discrepancy.

(c) *Exception.* There is no violation, and consequently no penalty incurred under paragraph (b), in the circumstances described in §§ 4.12(a)(5) and 6.7(h)(5) of this chapter. **[TD 79-160.]**

§ 162.73 Penalties under section 592, Tariff Act of 1930, as amended.

(a) *Maximum penalty without prior disclosure.* If the person concerned has not made a prior disclosure as provided in section 162.74, the monetary penalty under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), shall not exceed:

(1) For fraudulent violations, the domestic value of the merchandise;

(2) For grossly negligent violations,

(i) The lesser of the domestic value of the merchandise or four times the loss of duties, or

(ii) If there is no loss of duties, 40 percent of the dutiable value of the merchandise; and

(3) For negligent violations,

(i) The lesser of the domestic value of the merchandise or two times the loss of duties, or

(ii) If there is no loss of duties, 20 percent of the dutiable value of the merchandise.

(b) *Maximum penalty with prior disclosure.* If the person concerned has made a prior disclosure, the monetary penalty shall not exceed:

(1) For fraudulent violations,

(i) One times the loss of duties, or

(ii) If there is no loss of duties, 10 percent of the dutiable value of the merchandise; and

(2) For grossly negligent and negligent violations, the interest on any loss of duties. The interest shall be computed from the date of liquidation at the prevailing rate of interest applied under section 6621, Internal Revenue Code of 1954, as amended (26 U.S.C. 6621).

(c) *Exception; clerical error or mistake of fact.* There is no violation and, consequently, no penalty incurred, if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of the pattern of negligent conduct. **[TD 79-160.]**

§ 162.74 Prior disclosure.

(a) *In general.* A prior disclosure is made if the person concerned discloses the circumstances of a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any actual loss of duties in accordance with paragraph (e) of this section. If a prior disclosure is made, the maximum penalties shall be as set forth in § 162.73(b).

(b) *Referral for investigation.* Any disclosure of a violation shall be referred immediately by the district director to the appropriate field office of the Office of Investigations. Upon completion of its investigation, the field office immediately shall return the disclosure, together with its report, to the district director for appropriate action.

(c) *Commencement of formal investigation.* A formal investigation of a violation is considered to be commenced:

(1) In the case of a referral by an import specialist or other Customs officer of a matter involving the disclosing party and the disclosed information for investigation of a possible violation of 19 U.S.C. 1592 on the date the matter was referred to the Office of Investigations;

(2) In the case of referral by an import specialist or other Customs officer of a request for value, classification or other technical investigation, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(3) In the case of an investigation prompted by an individual other than a Customs officer with regard to the disclosing party and the disclosed information, on the date recorded on the Memorandum of Information Received, Customs Form 4621, by the Office of Investigations as the date on which the information was received;

(4) In the case of an ongoing investigation of a possible violation of 19 U.S.C. 1592 not involving the disclosing party and the information disclosed, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(5) In the case of a general ongoing investigation of a specific class of goods or industry, on the date recorded by the Office of Investigations as the date on which it determined to direct its investigation specifically to the disclosing party and the disclosed information; and

(6) In all other cases, on the date recorded in a Report of Investigation, Customs Form 23, as the date on which an investigator was assigned to investigate possible violations of 19 U.S.C. 1592 by the disclosing party with respect to the disclosed information.

(d) *Proof of lack of knowledge.* A person who claims a lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge.

(e) *Tender of actual loss of duties.* A person who discloses the circumstances of the violation shall tender any actual loss of duties at the time of disclosure, or within 30 days after the district director notifies the person in writing of his calculation of the actual loss of duties. The district director may extend the period if he determines there is good cause to do so.

(f) *Undisclosed violations.* Undisclosed violations discovered by Customs as the result of an investigation of a prior disclosure of another violation shall not be entitled to treatment under the prior disclosure provisions.

(g) *Minor violations.* The district director shall not refer a disclosed violation for investigation or establish a penalty case if:

(1) The disclosed violation involves a loss of duties of $500 or less,

(2) Any actual loss of duties has been deposited,

(3) There is no evidence that the violation was fraudulent, and

(4) There are no other compelling reasons for a penalty proceeding, such as a history of similar violations. **[TD 79-160.]**

§ 162.75 Seizures limited under section 592, Tariff Act of 1930, as amended.

(a) *When authorized.* Merchandise may be seized for violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592) *only* if the district director has reasonable cause to believe that a person has violated the statute and that:

(1) The person is insolvent,

(2) The person is beyond the jurisdiction of the United States,

(3) Seizure otherwise is essential to protect the revenue, or

(4) Seizure is essential to prevent the introduction of prohibited or restricted merchandise into the Customs territory of the United States.

(b) *No seizure if prior disclosure.* Under no circumstances shall merchandise be seized under the authority of 19 U.S.C. 1592 if there has been a prior disclosure of the violation. This paragraph does not limit seizures under the authority of any other applicable law or regulation.

(c) *Seizure notice*. If merchandise is seized, the district director shall promptly issue a written notice of seizure to the person concerned and to any other person the facts of record indicate has an interest in the merchandise. The seizure notice shall contain the information required by § 162.31 and shall state why the seizure was necessary.

(d) *Release of seized merchandise*—(1) *To person from whom seized*. The district director shall return seized merchandise to the person from whom seized upon the deposit of security, in a form acceptable to the district director, equal to the maximum penalty which may be assessed, if the entry of the merchandise into the commerce of the United States is not prohibited or restricted.

(2) *To others*. The district director may release seized merchandise to any other person upon the deposit of adequate security, in a form acceptable to the district director, if the entry of the merchandise into the commerce of the United States is not prohibited or restricted, and if:

(i) The district director is satisfied that the person has a substantial interest in the merchandise, and

(ii) The person submits either an agreement to hold the United States and its officers and employees harmless, or a release from the owner and/or the person from whom the merchandise was seized.

(3) *Forfeiture*. If neither a petition for relief is filed in accordance with Part 171 of this chapter, nor the monetary penalty paid within the time provided by law, the district director immediately shall:

(1) Report the facts to the U.S. attorney for the judicial district in which the seizure was made, if the appraised value of the seized merchandise exceeds $10,000 or

(2) Proceed under the summary forfeiture provisions of Subpart E of this part, if the appraised value does not exceed $10,000. **[TD 79-160.]**

§ 162.76 Prepenalty notice for violations of sections 466 or 584(a)(1), Tariff Act of 1930, as amended.

(a) *When required*. If the district director has reasonable cause to believe that a violation of section 466 or 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1466, 1584(a)(1)), has occurred and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intent to issue a penalty claim or a claim of forfeiture, as appropriate.

(b) *Contents*—(1) *Facts of violation*. The prepenalty notice shall:

(i) Describe the merchandise, if applicable,

(ii) Set forth the details of the error in the manifest, if applicable,

(iii) Specify all laws and regulations allegedly violated,

(iv) Describe all material facts and circumstances which establish the alleged violation, and

(v) State the estimated loss of duties, if any, and, taking into account all circumstances, the amount of the proposed penalty claim or claim of forfeiture, as appropriate.

(2) *Right to make presentation*. The prepenalty notice also shall inform the person of his right to make a written and an oral presentation within 30 days of the mailing of the notice (or such shorter period as may be prescribed under § 162.78) as to why a penalty claim or claim of forfeiture should not be issued or, if issued and it involves a monetary amount, why it should be in a lesser amount than proposed.

(c) *Exception*. No prepenalty notice shall be issued if the proposed penalty for an alleged violation of 19 U.S.C. 1584(a)(1) is $500 or less. **[TD 79-160.]**

§ 162.77 Prepenalty notice for violations of section 592, Tariff Act of 1930, as amended.

(a) *When required*. If the district director has reasonable cause to believe that a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), has occurred, and determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to issue a claim for a monetary penalty. The prepenalty notice shall be issued whether or not a seizure has been made.

(b) *Contents*—(1) *Facts of violation*. The prepenalty notice shall:

(i) Describe the merchandise,

(ii) Set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or abetting of the entry, introduction, or attempt,

(iii) Specify all laws and regulations allegedly violated,

(iv) Disclose all material facts which establish the alleged violation,

(v) State whether the alleged violation occurred as the result of fraud, gross negligence, or negligence, and

(vi) State the estimated loss of duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty.

(2) *Right to make presentations*. The prepenalty notice also shall inform the person of his right to make an oral and a written presentation within 30 days of the mailing of the notice (or such shorter period as may be prescribed under § 162.78) as to why a claim for a monetary penalty should not be issued or, if issued, why it should be in a lesser amount than proposed.

(c) *Exceptions*. A prepenalty notice shall not be issued if:

(1) The claim is for $1,000 or less, or

(2) The violation occurred with respect to a noncommercial importation. **[TD 79-160.]**

§ 162.78 Presentations responding to prepenalty notice.

(a) *Time within which to respond*. Unless a shorter period is specified in the prepenalty notice or an extension is given in accordance with paragraph (b) of this section, the named person shall have 30 days from the date of mailing of the prepenalty notice to make a written and an oral presentation. The district director may specify a shorter reasonable period of time, but not less than 7 days, if less than 1 year remains before the statute of limitations may be asserted as a defense. If a period of fewer than 30 days is specified, the district director, if possible, shall inform the named person of the prepenalty notice and its contents by telephone at or about the time of issuance.

(b) *Extensions*. If at least 1 year remains before the statute of limitations may be asserted as a defense, the district director, upon written request, may extend the time for filing a written presentation, or making an oral presentation, or both, for any of the reasons given in § 162.32(a) relating to extensions of time for filing petitions for relief. Other extensions may be authorized only by Headquarters.

(c) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is the written presentation in response to the prepenalty notice. It should contain answers to the allegations in the prepenalty notice and set forth the reasons why the person believes the claim should not be issued or, if issued, why it should be in a lesser amount than proposed.

(d) *Additional presentations.* In addition to one written and one oral presentation, the district director, in his discretion, may allow further presentations. **[TD 79-160.]**

§ 162.79 Determination as to violation.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice, the district director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no claim for a monetary penalty will be issued.

(b) *Violation*—(1) *Written notice of claim.* If, after considering any presentations made in response to the prepenalty notice, the district director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of a claim for a monetary penalty to that person.

(2) *Contents.* The notice of a claim for a monetary penalty shall contain any changes in the information provided in the prepenalty notice, and shall inform the person of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), in accordance with Part 171 of this chapter. If the person to whom the notice is issued is liable for any actual loss of duties recoverable under § 162.79b, the notice shall identify the entries involved, state the amount of duties payable and how it was calculated, and require the person to deposit or arrange for payment of the duties within 30 days of the date of the notice. **[TD 79-160.]**

§ 162.79a Other notice.

If no prepenalty notice is issued, a written notice of any monetary penalty incurred shall contain the information required under § 162.76(b)(1) or § 162.77(b)(1), except that the notice shall state the amount of the claim for a monetary penalty. The notice also shall inform the person of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), in accordance with Part 171 of this chapter. **[TD 79-160.]**

§ 162.79b Recovery of actual loss of duties.

Whether or not a monetary penalty is assessed under this subpart, the district director shall require the deposit of any actual loss of duties resulting from a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), notwithstanding that the liquidation of the entry to which the loss is attributable has become final. If a person is liable for the payment of actual loss of duties in any case in which a monetary penalty is not assessed or a written notice of claim of monetary penalty is not issued, the district director shall issue a written notice to the person of the liability for the actual loss of duties. The notice shall identify the merchandise and entries involved, state the loss of duties and how it was calculated, and require the person to deposit or arrange for payment of the duties within 30 days from the date of the notice. Any determination of actual loss of duties under this section is subject to review upon written application to the Commissioner of Customs. **[TD 79-160.]**

PART 171—FINES, PENALTIES, AND FORFEITURES

Sec.

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Authority: R.S. 251, secs. 592, 618, 624, 46 Stat. 750, as amended, 757, as amended, 759; 19 U.S.C. 66, 1592, 1618, 1624. The provisions of Subpart C also issued under sec. 1, 40 Stat. 223, as amended, R.S. 5294, as amended, sec. 9, 24 Stat. 81, as amended; 22 U.S.C. 401, 46 U.S.C. 7, 320, unless otherwise noted.

Source: T.D. 70-249, 35 FR 18265, Dec. 1, 1970, unless otherwise noted.

§ 171.0 Scope.

This part contains provisions relating to filing of petitions and action upon petitions for relief from fines, penalties, and forfeitures incurred, and petitions for the restoration of proceeds from sale of seized and forfeited property. **[70-249.]**

Subpart A—General Provisions

§ 171.1 Special procedures for certain liabilities incurred under section 592, Tariff Act of 1930, as amended.

(a) *Voluntary disclosure.* Any voluntary disclosure of violations of Customs laws which may result in a loss of revenue and which would subject either the merchandise involved or its value to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), accompanied by a tender of the loss of revenue, (except as provided in subparagraph (3) of this paragraph), shall be immediately referred by the district director to the appropriate field office of the Office of Investigations. Upon the completion of its invesitgation, the field office shall immediately return the disclosure, together with its report, to the district director for appropriate action. **[TDs 75-21, 78-151.]**

(1) *Mitigation of statutory liability.* If appropriate investigation establishes that no Customs investigation had been initiated with respect to the disclosed information prior to such disclosure, the disclosure shall be treated as voluntary for purposes of this paragraph. For purposes of this subparagraph an investigation is considered to be initiated with respect to disclosed information: **[TDs 75-21, 75-234.]**

(i) In the case of a referral by an import specialist or other Customs officer of a matter involving the disclosing party and the disclosed information for investigation of a possible violation of 19 U.S.C. 1592, on the date such matter was referred to the Office of Investigations; **[TD 75-234.]**

(ii) In the case of a referral by an import specialist or other Customs officer of a request for value, classification or other technical investigation, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information; **[TD 75-234.]**

(iii) In the case of an investigation prompted by an individual other than a Customs officer with regard to the disclosing party and the disclosed information, on the date recorded on the Memorandum of Information Received by the Office of Investigations as the date on which such information was received; **[TD 75-234.]**

(iv) In the case of an ongoing investigation of a possible violation of 19 U.S.C. 1592 not involving the disclosing party and the information disclosed, on the date recorded in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information; **[TD 75-234.]**

(v) In the case of a general ongoing investigation of a specific class of goods or industry, on the date recorded by the Office of Investigations as the date on which it determined to direct its investigation specifically to the disclosing party and the disclosed information; and **[TD 75-234.]**

(vi) In all other cases, on the date recorded in a Report of Investigation as the date on which an investigator was assigned to investigate possible violations of 19 U.S.C. 1592 by the disclosing party with respect to the disclosed information. **[TD 75-234.]**

Although a notice of penalty shall be issued with respect to a disclosed violation, as required by law, it shall be the established policy of the Customs Service, upon the filing of a petition for relief from such penalty, to mitigate the statutory liability to an amount not to exceed one time the total loss of revenue, provided the actual loss of revenue is deposited as withheld duties, regardless of whether the disclosed violation was intentional when committed. Further mitigation beyond the foregoing maximum may be justified in individual cases on the basis of relevant circumstances, such as diligence in disclosing a violation following its discovery.

(2) *Detection of undisclosed violations resulting from a voluntary disclosure.* Undisclosed violations discovered

by Customs as a result of the investigation of a voluntary disclosure will be treated in the same manner as set forth above unless it is determined that such other violations were intentional when committed. **[TDs 75-21, 78-151.]**

(3) *Voluntary disclosures unaccompanied by tender of loss of revenue.* Any voluntary disclosure of violations of Customs laws which may result in a loss of revenue and which would subject the merchandise involved or its value to forfeiture under 19 U.S.C. 1592 will be accepted and processed under the provisions of this paragraph when unaccompanied by a tender of the loss of revenue, provided (1) the disclosing party alleges that the loss of revenue cannot be ascertained at the time of the disclosure, and (2) the disclosing party agrees to ascertain the loss of revenue and to tender the same to the district director at the earliest possible date. The loss of revenue must be tendered prior to any mitigation of the statutory liability incurred for the violations. **[TD 78-151.]**

(4) *Inapplicability of voluntary disclosure procedure.*

(i) If the district director determines that a voluntarily-disclosed revenue loss is attributable to inadvertent errors or circumstances such as technical or petty violations not amounting to negligence and that the establishment of a penalty case under 19 U.S.C. 1592 would be inappropriate, the district director shall not refer the matter under the voluntary disclosure program or establish a penalty case, provided any duties due and withheld duties have been deposited. **[TD 78-151, 78-212.]**

(ii) Where the district director determines that the voluntarily disclosed violation involves a loss of revenue of $250 or less, that any duties due and withheld duties have been deposited and that the violation disclosed either does not extend to other ports or has already been disclosed at other ports, the district director shall not refer the matter under the voluntary disclosure program or establish a penalty case, unless there are compelling reasons for doing so, such as similar violations.

(b) *Prepenalty notice procedure.* (1) *Issuance of prepenalty notice.* Prior to the issuance of a claim for forfeiture value under § 162.31 of this chapter in excess of $25,000 for violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), with respect to the entry, or attempted entry, of merchandise the district director shall notify the owner, importer, consignee, agent, or other person entering, or attempting to enter, the merchandise, in writing, of his intention to issue such a claim. The notice shall set forth the information required by section 162.31(b) of this chapter. In the event one year or less remains prior to the expiration of the 5-year statute of limitations with respect to such an alleged violation, the prepenalty notice procedure shall not be utilized. **[TD 78-38.]**

(2) *Reply to prepenalty notice.* The person to whom the district director's prepenalty notice is addressed shall have a period of 30 days from the date of its issuance to file a written reply with the district director showing why the claim for forfeiture value should not be issued. The reply should answer the allegations made in the prepenalty notice and should set forth evidence either refuting the allegations or establishing that reasonable cause existed for believing that the acts or omissions described in the allegations were proper. In addition to a written reply, the district director may, upon request, allow an oral presentation of arguments as to why a claim for forfeiture value should not be issued. Absent a showing of extraordinary circumstances, an extension of time to reply beyond the 30-day period shall not be granted.

(3) *Action on reply.* Each reply to a prepenalty notice shall be carefully considered by the district director. In those cases in which the district director determines that the allegations set forth in the prepenalty notice have been disproved or that the issuance of a claim for forfeiture value would otherwise be inappropriate, he shall notify the person to whom the prepenalty notice was addressed that the issuance of the claim for forfeiture value is no longer contemplated. In all other cases, including those in which no reply is received, the claim shall be issued. **[TD 75-21.]**

(4) *Exception to prepenalty notice procedure.* The procedure described in this paragraph does not apply in any case in which criminal prosecution is under consideration.

(c) *Exceptions.* The provisions of this section do not apply to violations referred to in § 162.70(a)(2) of this chapter. (R.S. 251, as amended, secs. 592, 618, 624, 46 Stat. 750, as amended, 757, as amended, 759 (5 U.S.C. 301, 19 U.S.C. 66, 1592, 1618, 1624)) **[TDs 75-21, 79-160.]**

§ 171.2 Limitations on consideration of petitions.

(a) *Case referred for institution of legal proceedings.* No action shall be taken on any petition if the civil liability has been referred to the United States attorney for institution of legal proceedings. The petition shall be forwarded to the United States attorney. **[TD 75-21.]**

(b) *Vessel or vehicle awarded for official use.* When a vessel or vehicle is awarded for official use, a petition shall not be considered unless:

(1) It is filed before final disposition of the property is made; or

(2) It is a petition for restoration of proceeds of sale filed in accordance with Subpart E of this part.

Subpart B—Application for Relief

§ 171.11 Petition for relief.

(a) *To whom addressed.* Petitions for the remission or mitigation of a fine, penalty, or forfeiture incurred under any law administered by Customs shall be addressed to the Commissioner of Customs.

(b) *Signature.* The petition for remission or mitigation shall be signed by the petitioner, his attorney at law, or a customhouse broker representing the petitioner. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory employee thereof, an attorney at law, or a customhouse broker representing the corporation. **[TDs 72-107, 73-141.]**

(c) *Form.* The petition for remission or mitigation need not be in any particular form. It shall set forth the following:

(1) A description of the property involved;

(2) The date and place of the violation or seizure; and

(3) The facts and circumstances relied upon by the petitioner to justify the remission or mitigation.

(d) *Petition for relief from forfeiture.* When the petition is for relief from a forfeiture, it shall show the interest of the petitioner in the property and in appropriate cases shall be supported by bills of sale, contracts, mortgages, or other satisfactory evidence. The notice shall inform any interested party in a case involving forfeiture of seized property that unless the petitioner provides an express agreement to defer judicial or administrative forfeiture proceedings until completion of the administrative process, the case will be referred promptly to the United States attorney for institution of judicial proceedings, or summary forfeiture proceedings will be begun. **[TD 79-160.]**

(e) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

§ 171.12 Filing of petition.

(a) *Where filed.* A petition for relief shall be filed with the district director for the district in which the property was seized or the fine or penalty imposed.

(b) *When filed.* Petitions for relief shall be filed within 60 days from the date of mailing of the notice of fine, penalty, or forfeiture incurred, unless additional time has been authorized as provided in § 162.32(a) of this chapter. **[TD 75-232.]**

(c) *Number of copies.* The petition shall be filed in triplicate.

§ 171.13 Additional evidence required with certain petitions.

(a) *Seized property in possession of another responsible for act.* If the seized property was in the possession of another who was responsible for or caused the act which resulted in the seizure, evidence shall be produced by the petitioner as to the manner in which the property came into the possession of such other person. The petitioner shall also submit evidence that prior to parting with the property he did not know, nor have reasonable cause to believe, that the property would be used to violate Customs or other laws, and that he did not know or have reason to believe that the violator had a criminal record or general reputation for commercial crime. In the case of a family member having an interest in property seized while in possession of another family member, evidence shall be submitted that the petitioning family member did not know or have reason to know that the property was likely to be used in the act which resulted in the seizure.

(b) *Petitioner holding chattel mortgage or conditional sales contract.* A petitioner holding a chattel mortgage or conditional sales contract covering the seized property shall submit with his petition evidence showing that: **[TD 72-67.]**

(1) He has an interest in such property, as owner or otherwise, which he acquired in good faith; and **[TD 72-67.]**

(2) He had at no time any knowledge or reason to believe that the property was being or would be used in violation of Customs or other laws of the United States. **[TD 72-67.]**

§ 171.14 Oral presentations seeking relief.

(a) *For certain violations.—*(1) *Right to make oral presentation.* If the penalty incurred is for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the person named in the notice also may make an oral presentation seeking relief in accordance with this paragraph. For purposes of this paragraph, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

(2) *Prerequisites.* The person shall be given a reasonable opportunity to make an oral presentation provided that a petition has been filed under § 171.12, and that the petition contains a request to present orally the reasons for remission or mitigation of the penalty.

(b) *Other oral presentations.* Oral presentations other than those provided in paragraph (a) of this section may be allowed in the discretion of any official of the Customs Service or Department of the Treasury authorized to act on a petition or supplemental petition. **[TDs 79-160, 79-305.]**

Subpart C—Action on Petitions

§ 171.21 Petitions acted on by district director.

The district director may mitigate or remit fines, penalties, and forfeitures incurred under any law administered by the United States Customs Service on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, when the total amount of the fines and penalties incurred with respect to any one offense, together with the total value of any merchandise or other article subject to forfeiture or to a claim for forfeiture value, does not exceed $25,000. **[TD 73-308.]**

§ 171.22 Special cases acted upon by district director.

(a) *Merchandise illegally transported coastwise.* A forfeiture of merchandise or a claim for forfeiture of a monetary amount under title 48, United States Code, section 883, for illegally transporting merchandise coastwise, may be remitted by the district director, regardless of the value of the merchandise or the amount of the penalty, if the petition for relief establishes to the satisfaction of the district director that the violation occurred as a direct result of an arrival of the transporting vessel in distress. **[TD 79-160.]**

(b) *Forfeiture of imported liquor or compound.* When any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, or any vessel or vehicle in which the same has been transported has become subject to forfeiture under the provisions of 18 U.S.C. 3615, for noncompliance with 18 U.S.C. 1263, and the U.S. attorney has advised the district director that there is not sufficient evidence of intent to violate the law to warrant criminal prosecution thereunder, the forfeiture incurred shall be remitted pursuant to the authority of section 7327, Internal Revenue Code of 1954 (26 U.S.C. 7327), and section 618, Tariff Act of 1930 (19 U.S.C. 1618), upon the condition that the expenses of seizure, if any, shall be paid.

(c) *Claim for property stolen in Canada and seized by U.S. Customs.* Under the provisions of Executive Order 4306, dated September 19, 1925 (T.D. 41110), any person claiming to be the owner of property stolen in Canada, brought into the United States and seized by Customs authorities for violation of law, may file with the district director having custody of the property a petition for its release, addressed to the Secretary of the Treasury. The petition shall be supported by evidence of ownership in the claimant and shall contain a waiver and release of all possible claims against the United States or any officer thereof for compensation or damages incident to the seizure and detention of the property. If the district director is satisfied that the claimant is the owner of the property and that it was brought into the United States without collusion on the part of the claimant, the district director may release the property for return to Canada upon the payment of all expenses incident to its seizure and detention. In the event of conflicting claims for the property or any doubt as to the claimant's interest in or right to the property, the district director shall submit the matter to the Commissioner of Customs for decision.

§ 171.23 Availability of mitigation guidelines for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended.

The guidelines used by the Customs Service for the mitigation of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, are available upon written request to the Commissioner of Customs, Attention: Office of Regulations and Rulings, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. **[TD 80-16C.]**

Subpart D—Disposition of Petitions

§ 171.31 Act or omission did not occur.

If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the district director. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

§ 171.31a Written decision.

If a petition or supplemental petition (see section 171.33) for relief relates to a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the petitioner shall be provided with a written statement setting forth the decision on the matter and the findings of fact and conclusions of law upon which the decision is based. Decisions on initial or supplemental petitions which are considered to be precedential in nature or otherwise significant will be published in the weekly CUSTOMS BULLETIN with appropriate deletion of information exempt from disclosure under Part 103 of this chapter. For purposes of this section, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty. **[TD 79-160.]**

§ 171.32 Limitation on time decision effective.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full penalty or claim of forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter, after required collection action, if appropriate, to the U.S. attorney unless other action has been directed by the Commissioner of Customs. **[TD 79-160.]**

§ 171.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the petitioner is not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration*—(1) *Decisions of the district director.* Where the district director has the authority to grant relief in accordance with the provisions of §§ 171.21 and 171.22, he may grant additional relief if he believes it is warranted. If there has been a specific request on the part of the petitioner for review by the regional commissioner, or if the district director believes no additional relief is warranted, or if the petitioner is not satisfied with the additional relief granted by the district director, the supplemental petition, together with all pertinent documents, shall be forwarded to the regional commissioner of the region in which the district lies for reconsideration and disposition of the case, except as provided in § 171.22(c). **[TDs 73-308, 75-36.]**

(2) *Decisions of the Commissioner of Customs.* A supplemental petition appealing a decision of the Commissioner of Customs shall be filed, together with all pertinent documents, with the district director who initiated the case for transmittal to the Commissioner of Customs for reconsideration. **[TD 75-36.]**

Subpart E—Restoration of Proceeds of Sale

§ 171.41 Application of provisions for petitions for relief.

The general provisions of Subpart B of this part on filing and content of petitions for relief apply to petitions for restoration of proceeds of sale except insofar as modified by this subpart.

§ 171.42 Time limit for filing petition for restoration.

A petition for the restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C.

1613), shall be filed within 3 months after the date of the sale.

§ 171.43 Evidence required.

In addition to such other evidence as may be required under the provisions of Subpart B of this part, the petition for restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), shall show the interest of the petitioner in the property, supported in appropriate cases by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. The petition shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing of it.

§ 171.44 Forfeited property authorized for official use.

If forfeited property the subject of a claim under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of section 613. The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight charges and contributions in general average that may have been filed. (Secs. 305, 306, 49 Stat. 880; 40 U.S.C. 304j, 304k)

PART 172—LIQUIDATED DAMAGES

Sec.
172.0 Scope.

Subpart A—General Provisions

172.1 Notice of liquidated damages incurred and right to petition for relief.
172.2 Failure to petition for relief.

Subpart B—Application for Relief

172.11 Petition for relief.
172.12 Filing of petition for relief.

Subpart C—Action on Petitions

172.21 Petitions acted on by district director of Customs.
172.22 Special cases acted on by district director of Customs.
172.23 Limitations on consideration of petitions.

Subpart D—Disposition of Petitions

172.31 Act or omission did not occur.
172.32 Limitation on time decision effective.
172.33 Supplemental petitions for relief.

Authority: R.S. 251, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624.

Source: T.D. 70-249, 35 FR 18267, Dec. 1, 1970, unless otherwise noted.

§ 172.0 Scope.

This part contains provisions relating to the giving of notice of liquidated damages incurred under the terms of any bond posted with Customs, the filing of petitions for relief from liquidated damages incurred, and the consideration of such petitions. **[TD 70-249.]**

Subpart A—General Provisions

§ 172.1 Notice of liquidated damages incurred and right to petition for relief.

(a) *Notice of liquidated damages incurred.* When there is a failure to meet the conditions of any bond posted with Customs, the principal shall be notified in writing of any liability for liquidated damages incurred by him and a demand shall be made for payment. The sureties on such bond shall also be advised in writing, at the same time as the principal, of the liability for liquidated damages incurred by the principal.

(b) *Notice of right to petition for relief.* The notice shall also inform the principal and his sureties on the bond that application may be made for relief from payment of liquidated damages under section 623(c), Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), or any other applicable statute authorizing the cancellation of any bond or of any bond charge that may have been made against such bond.

§ 172.2 Failure to petition for relief.

(a) *Referral of claim to U.S. attorney.* If any party liable for liquidated damages fails to petition for relief or to pay or make arrangements to pay the liquidated damages within 60 days from the date of mailing of the notice of the liquidated damages incurred, as provided in section 172.1, or within such additional time as may have been granted, the district director of Customs, after required collection action, shall refer the claim promptly to the United States attorney. **[TD 79-160.]**

(b) *Absence from the United States.* If it appears that the parties liable for liquidated damages are absent from the United States or during the 60-day period referred to in paragraph (a) of this section were absent for more than 30 days, the district director may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

Subpart B—Application for Relief

§ 172.11 Petition for relief.

(a) *To whom addressed.* Petitions for relief shall be addressed to the Commissioner of Customs.

(b) *Form.* A petition for relief need not be in any particular form. Such petition shall set forth the facts relied upon by the petitioner to justify cancellation of the claim for liquidated damages, and shall be signed by the petitioner, his attorney at law, or a customhouse broker representing the petitioner. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory employee thereof, an attorney at law, or a customhouse broker representing the corporation. **[TDs 72-107, 73-141.]**

§ 172.12 Filing of petition for relief.

(a) *Where filed.* A petition for relief shall be filed with the district director of Customs for the district in which the liability for liquidated damage is incurred.

(b) *When filed.* A petition for relief shall be filed within 60 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the district director.

(c) *Number of copies.* The petition for relief shall be filed in triplicate.

Subpart C—Action on Petitions

§ 172.21 Petitions acted on by district director of Customs.

The district director may cancel any claim for liquidated damages incurred on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is $50,000 or less. **[TDs 72-262, 73-140, 73-308.]**

§ 172.22 Special cases acted on by district director of Customs.

(a) *Nonproduction of documents in general.* District directors are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of $25 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations and special Customs and commercial invoices, not produced within the time prescribed by law or regulations or any lawful extension of such time. **[TD 75-229.]**

(b) *Nonproduction of Special Customs Invoices or commercial invoices.*—If a required Special Customs Invoice, Customs Form 5515, or a commercial invoice is not produced (1) on the date the entry or entry summary is filed, (2) within 6 months after the date the entry or entry summary is required to be filed, or (3) if the invoice is needed for statistical purposes, within 50 days after the date the entry or entry summary is required to be filed, then unless the production is waived under the provisions of section 141.92 of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of $25 as liquidated damages, if: **[TDs 73-175, 79-221.]**

(1) The party who made the entry submits an application for relief explaining in detail why the special Customs or commercial invoice could not be produced within the prescribed period; and

(2) The district director of Customs is satisfied by such application or otherwise that the failure to produce the invoice within the prescribed period was due to causes wholly beyond the control of the party making the entry and not to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(c) *Nonproduction of free-entry or reduced-duty documents.* When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally free or reduced duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated by the district director as abandoned upon the assessment and payment of duty and the bond (or, in the case of a term bond, the charge against the bond) given for the production of the free-entry or reduced-duty document may be cancelled without the collection of liquidated damages. **[TD 77-27.]**

(d) *Failure to file timely entry summary after release under entry or immediate delivery permit.*—If a timely entry summary for merchandise not subject to quota has not been filed after release under an entry or a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with section 142.15 or 142.27, respectively, of this chapter as follows: **[TDs 73-175, 79-221.]**

(1) If he is satisfied that the delay was not deliberate, the district director may cancel such liquidated damages upon the payment of an appropriate sum which shall not exceed 10 percent of the duty assessed but not less than $25. In general, the district director shall not cancel a claim for liquidated damages upon payment of an amount in the lower range of his discretion if the entry is late by more than 3 working days. In determining the appropriate amount the district director shall take into consideration the following:

(i) The circumstances causing the delay;

(ii) The extent of the lateness;

(iii) The amount of duty involved; and

(iv) The past record of the importer with respect to the timeliness of filing entries.

(2) If he is satisfied that the violation was incurred solely because of a delay in the return by Customs to the importer of documents necessary to make entry, the district director may cancel such liquidated damages without payment.

(3) If collection of an amount greater than that provided by this paragraph appears warranted the case shall be forwarded to the Commissioner of Customs for disposition. (R.S. 251, as amended, sec. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624).)

§ 172.23 Limitations on consideration of petitions.

No action looking to relief from the payment of full liquidated damages shall be taken on any petition, irrespective of the amount involved, if the claim has been referred to the U.S. attorney for collection as provided in § 172.2.

Subpart D—Disposition of Petitions

§ 172.31 Act or omission did not occur.

(a) *Definite.* If it is definitely determined that the act or omission forming the basis for a claim for liquidated damages did not in fact occur, the claim shall be cancelled by the district director. If the liquidated damages have already been paid, they shall be refunded by the regional commissioner of Customs, and an appropriate notation shall be made on Customs Form 5955-A, if the transaction has already been recorded thereon. **[TD 74-227.]**

(b) *Dependent upon a construction of law.* When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling decisive of the issue.

(c) *Doubtful cases.* Approval of the Commissioner of Customs shall be requested in all doubtful cases.

§ 172.32 Limitation on time decision effective.

A decision to cancel a claim for liquidated damages on condition that a stated amount be paid shall be effective for not more than 60 days from the date of notice to the parties of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full claim for liquidated damages shall be deemed applicable and, after required collection action, shall be referred promptly to the U.S. attorney unless other action has been directed by the Commissioner of Customs. **[TD 79-160.]**

§ 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director of Customs by the interested parties. Such a petition shall be filed either:

(1) Within 60 days from the date of notice to the petitioner of the decision on the initial petition for relief if no effective period is prescribed in the decision: or

(2) Within the time prescribed in the decision on the initial petition for relief as the effective period of the decision.

(b) *Consideration*—(1) *Decisions of the district director.* Where the district director has authority to grant relief in accordance with the provisions of § § 172.21 and 172.22, he may grant additional relief if he believes it is warranted. If there has been a specific request on the part of the petitioner for reconsideration by the regional commissioner, or if the district director believes no additional relief is warranted, or if the petitioner is not satisfied with the additional relief granted by the district director, the supplemental petition, together with all pertinent documents, shall be forwarded to the regional commissioner of the region in which the district lies for reconsideration and disposition of the case, except as provided in § 172.22(d)(3). **[TDs 73-308, 75-36.]**

(2) *Decisions of the Commissioner of Customs.* A supplemental petition appealing a decision of the Commissioner of Customs shall be filed, together with all pertinent documents, with the district director who initiated the case for transmittal to the Commissioner of Customs for reconsideration. **[TD 75-36.]**

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.
173.0 Scope.
173.1 Authority to review for error.
173.2 Transactions which may be reviewed and corrected.
173.3 Voluntary reliquidation.
173.4 Correction of clerical error, mistake of fact, or inadvertence.
173.5 Review of entry covering household for personal effects.
173.6 Review of entry for fraud.

Authority: R.S. 251, secs. 501, 624, 46 Stat. 730, as amended, 759; 19 U.S.C. 66, 1501, 1624.

Source: T.D. 70-181, 35 FR 13429, Aug. 22, 1970, unless otherwise noted.

§ 173.0 Scope.

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520(c)(1), Tariff Act of 1930, as amended, the authority to review an entry of household or personal effects, and the power to reliquidate an entry on account of fraud. **[TD 70-181.]**

§ 173.1 Authority to review for error.

District directors, or in the New York Customs Region, the Regional Commissioner of Customs, have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer. **[TD 79-221.]**

§ 173.2 Transactions which may be reviewed and corrected.

The district director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisement where appropriate, at the time of:

(a) Liquidation of an entry;

(b) Voluntary reliquidation completed within 90 days after liquidation;

(c) Voluntary correction of an exaction within 90 days after the exaction was made;

(d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or

(e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

§ 173.3 Voluntary reliquidation.

(a) *Authority to reliquidate.* The district director within 90 days from the date notice of the original liquidation is given to the importer, consignee, or agent, may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisement, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the district director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation shall be given in accordance with the requirements for giving notice of the original liquidation. (Sec. 501, 46 Stat. 730, as amended; 19 U.S.C. 1501)

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct.* Even though a valid protest was not filed, the district director, upon timely application, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1), a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section, by reliquidation or other appropriate action.

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence: **[TD 79-221.]**

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer; and

(3) Is manifest from the record or established by documentary evidence.

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section shall be brought to the attention of the district director at the port of entry, or in the New York Customs Region, the Regional Commissioner of Customs, within 1 year after the date of liquidation or exaction.

(d) *"Liquidation" includes reliquidation.*—"Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), and in this section, includes reliquidation of an entry. **[TD 79-221.]**

§ 173.5 Review of entry covering household or personal effects.

An error in the liquidation of an entry covering household or personal effects may be corrected by the district director even though a timely protest was not filed if an application for refund is filed with the district director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the district director has authority to grant. Where the district director has no authority to grant the waiver, the application shall be referred to the Commissioner of Customs. (Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

§ 173.6 Review of entry for fraud.

The district director may review any entry in which fraud is suspected. Where probable cause to believe there is fraud in the case is found by the district director, he may reliquidate an entry within 2 years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation. (Sec. 521, 46 Stat. 739; 19 U.S.C. 1521)

PART 174—PROTESTS

Sec.
174.0 Scope.

Subpart A—General Provisions

174.1 Definitions.
174.2 Applicability of provisions.
174.3 Power of attorney to file protest.

Subpart B—Protests

174.11 Matters subject to protest.
174.12 Filing of protests.
174.13 Content of protests.
174.14 Amendment of protests.
174.15 Consolidation of protests filed by different parties.
174.16 Limitation on protests after reliquidation.

Subpart C—Review and Disposition of Protests

174.21 Time for review of protests.
174.22 Accelerated disposition of protests.
174.23 Further review of protests.
174.24 Criteria for further review.
174.25 Application for further review.
174.26 Review of protests after application for further review.
174.27 Disposition after further review.
174.28 Consideration of additional arguments.
174.29 Allowance or denial of protests.
174.30 Notice of denial of protest.
174.31 Judicial review of denial of protest.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart B also issued under sec. 514, 46 Stat. 736, as amended; 19 U.S.C. 1514. Subpart C also issued under sec. 515, 46 Stat. 736, as amended; 19 U.S.C. 1515.

Source: T.D. 70-181, 35 FR, 13429, Aug. 22, 1970, unless otherwise noted.

§ 174.0 Scope.

This part deals with the administrative review of decisions of the district director, including the requirements for the filing of protests against such decisions, amendment of protests, review and accelerated disposition, and provisions dealing with further administrative review. **[TD 70-181.]**

Subpart A—General Provisions

§ 174.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *District director.* "District director" means the district director of Customs at a headquarters port other than the port of New York, N.Y., and the regional commissioner of Customs for Customs Region II at the port of New York, N.Y.

(b) *Further review.* "Further review" means review of the decision which is the subject of the protest by Customs officers on a level higher than the district, and in Region II by Customs officers who did not participate directly in the decision which is the subject of the protest.

§ 174.2 Applicability of provisions.

(a) *In general.* The provisions of this part shall be applicable to protests against decisions involving:

(1) Articles excluded from entry or entered or withdrawn from warehouse for consumption on or after October 1, 1970;

(2) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which appraisement has not become final by October 1, 1970;

(3) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which the appraisement has become final but with respect to which the entry has not been liquidated prior to October 1, 1970;

(4) Articles entered or withdrawn from warehouse for consumption with respect to which the entry has been liquidated prior to October 1, 1970, if

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970; or

(5) Articles excluded from entry before October 1, 1970, with respect to which

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970.

(b) *Limitation*—(1) *Appraisement not final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, is not final by October 1, 1970, because an appeal for reappraisement was timely filed prior to such date, the provisions of this part relating to protests shall be applicable to a protest filed after the court's decision on the appeal to reappraisement has become final. Such protest shall not include issues which were raised or could have been raised on the appeal for reappraisement.

(2) *Appraisement final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, has become final prior to October 1, 1970, but the entry has not been liquidated by such date, a protest filed in accordance with the provisions of this part after such liquidation shall not include issues which were raised or could have been raised on an appeal to reappraisement before the appraisement became final. **[TD 71-60.]**

(3) *Protest not disallowed.* When a protest filed prior to October 1, 1970, has not been disallowed in whole or in part before such date, the provisions of this part shall be applicable to such protests. The time within which any action must be taken under the provisions of this part with respect to such a protest shall commence on the date the protest was in fact filed. **[TD 71-60.]**

§ 174.3 Power of attorney to file protest.

(a) *When required.* When a protest is filed by a person acting as agent or attorney in fact for the principal, other than an attorney at law or a customhouse broker or his authorized employee acting in his behalf, there shall have been filed or shall be filed with the protest a power of attorney which either specifically authorizes such agent to make, sign, and file the protest or grants unlimited authority to such agent. No power of attorney to file a protest shall be required in the following cases:

(1) *Attorney at law.* When the protest is filed by an attorney at law as agent or attorney for the principal, the signing of the protest as agent or attorney for the principal by the attorney at law shall be considered a declaration by him that he is currently a member in good standing of the

highest court of a State, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the protest for the principal. **[TD 70-244.]**

(2) *Customhouse broker or his employee.* When a protest is filed by a customhouse broker, or an authorized employee acting in his behalf, as agent or attorney in fact for the principal, the signing of the protest by the customhouse broker or an authorized employee in his behalf shall be considered a declaration by the broker that he or the employee signing in his behalf, is authorized to sign and file the protest for the principal. The customhouse broker shall have, however, a general power of attorney to transact Customs business for the principal on Customs Form 5291.

(b) *Execution of power of attorney*—(1) *Corporation.* A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation. If the district director is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of § 141.37 of this chapter may be waived with respect to such power. **[TD 73-175.]**

(2) *Partnership.* A partnership power of attorney to file protests may be signed by one member in the name of the partnership, provided the power recites the name of all the members.

(c) *Duration.* Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the district director. All other powers of attorney may be granted for an unlimited period.

(d) *Revocation.* Any power of attorney shall be subject to revocation at any time by written notice given to and received by the district director. (Secs. 514, 515, 46 Stat. 734, as amended; 19 U.S.C. 1514, 1515)

Subpart B—Protests

§ 174.11 Matters subject to protest.

The following decisions of the district director, including the legality of all orders and findings entering into the same, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) The appraised value of merchandise;

(b) The classification and rate and amount of duties chargeable;

(c) All charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

(d) The exclusion of merchandise from entry or delivery under any provision of the Customs laws;

(e) The liquidation or reliquidation of an entry, or any modification thereof;

(f) The refusal to pay a claim for drawback; and

(g) The refusal to reliquidate an entry under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

§ 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by:

(1) The importer or consignee shown on the entry papers, or their sureties;

(2) Any person paying any charge or exaction;

(3) Any person seeking entry or delivery;

(4) Any person filing a claim for drawback; or

(5) Any authorized agent of any of the persons described in paragraphs (a)(1) through (4) of this section, subject to the provisions of § 174.3. **[TD 80-271.]**

(b) *Form and number of copies.* Protests against decisions of a district director shall be filed in quadruplicate on Customs Form 19 or a form of the same size clearly labeled "Protest" and setting forth the same content in its entirety, in the same order, addressed to the district director. All schedules or other attachments to a protest (other than samples or similar exhibits) shall also be filed in quadruplicate.

(c) *Signature.* The protest shall be signed by the person filing the protest, or his agent, or attorney. If the person filing is not the importer of record or consignee, he shall include his address and importer number, if any.

(d) *Place of filing.* Protests shall be filed with the district director whose decision is protested except that, when the entry underlying the decision protested is filed at a port other than the district headquarters, the protest may be filed with the port director at that port. **[TD 71-15.]**

(e) *Time of filing.* Protests shall be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days after either:

(1) The date of notice of liquidation or reliquidation in accordance with §§ 159.9 or 159.10 of this chapter; **[TD 73-175, 80-271.]**

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (e.g., the date of an exaction, the date of written notice excluding merchandise from entry or delivery under any provision of the Customs laws or the date of a refusal to reliquidate under section 520(c)(1) of the Tariff Act of 1930, as amended);

(3) The date of mailing of notice of demand for payment against a bond in the case of a surety which has an unsatisfied legal claim under a bond written by the surety. **[TD 80-271.]**

(f) *Date of filing.* The date on which a protest is received by the Customs officer with whom it is required to be filed shall be deemed the date on which it is filed.

(g) *Return of fifth copy.* If a fifth copy of the protest is presented for the purpose of having recorded thereon the date of its receipt and the protest number assigned thereto, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the protest.

§ 174.13 Contents of protest.

(a) *Contents, in general.* A protest shall contain the following information:

(1) The name and address of the protestant, i.e., the importer of record or consignee, and the name and address of his agent or attorney if signed by one of these;

(2) The importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown;

(3) The number and date of the entry;

(4) The date of liquidation of the entry, or the date of a decision not involving a liquidation or reliquidation;

(5) A specific description of the merchandise affected by the decision as to which protest is made;

(6) The nature of, and justification for the objection set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal; **[TD 80-271.]**

(7) The date of receipt and protest number of any protest previously filed that is the subject of a pending appli-

cation for further review pursuant to Subpart C of this part and that is alleged to involve the same merchandise and the same issues, if the protesting party requests disposition in accordance with the action taken on such previously filed protest.

(b) *Multiple entries.* A single protest may be filed with respect to more than one entry in any district if all such entries involve the same protesting party, and if the same category of merchandise and a decision or decisions common to all entries are the subject of the protest. In such circumstances, the entry numbers, dates of entry, and dates of liquidation of all such entries, as well as the ports of entry where they may not coincide, should be set forth as an attachment to the protest.

(c) *Optional designation for refunds.* If desired by the importer/consignee the statement "any refunds with respect to the entry under protest shall be mailed to the importer/consignee in care of ______________ ______________________________"

(Name and Address of Agent)

may be appended to the protest. This designation supersedes any existing designation previously authorized on Customs Form 4811;

(8) If another party has not filed a timely protest, the surety's protest shall certify that the protest is not being filed collusively to extend another authorized person's time to protest. **[TD 80-271.]**

§ 174.14 Amendment of protests.

(a) *Time for filing.* A protest may be amended at any time prior to the expiration of the 90-day period within which such protest may be filed determined in accordance with § 174.12(e). The amendment may assert additional claims pertaining to the administrative decision which is the subject of the protest, or may challenge an additional administrative decision relating to the same category of merchandise which is the subject of the protest. For the presentation of additional grounds or arguments in support of a valid protest after the 90-day period has expired see § 174.28.

(b) *Form and number of copies of amendment.* An amendment to a protest shall be filed in quadruplicate on Customs Form 19 or on a form of the same size, clearly labeled "Amendment to Protest" at the top of the form. Schedules or other attachments (other than samples or similar exhibits) shall also be filed in quadruplicate.

(c) *Contents.* An amendment to a protest shall contain the following information:

(1) The name, address, and importer number of the protesting party, i.e., the importer of record or consignee, and the name and address of his agent or attorney if filed by one of these;

(2) The number and date of filing of the original protest;

(3) A specific description of the merchandise affected by the decision as to which the amendment to the protest is filed;

(4) The nature of and justification for the objection raised by the amendment set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal; and

(5) The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review and that is alleged to involve the same merchandise and the same issues involved in the amendment.

(d) *By whom filed and signed.* An amendment to a protest may be filed and signed only by the person filing such protest or his agent or attorney subject to the provisions of § 174.3.

(e) *Place and date of filing.* An amendment to a protest shall be filed with the district director or port director with whom the protest was filed. The amendment shall be deemed filed on the date it is received by the Customs officer with whom it is required to be filed.

(f) *Return of fifth copy.* If a fifth copy of the amendment is presented for the purpose of having recorded thereon the date of its receipt, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the amendment.

§ 174.15 Consolidation of protests filed by different parties.

Separate protests relating to one category of merchandise covered by an entry shall be considered as a single protest whether filed as a single protest or filed as separate protests relating to the same category by one or more parties in interest or an authorized agent.

§ 174.16 Limitation on protests after reliquidation.

A protest shall not be filed against the decision of the district director on reliquidation upon any question not involved in the reliquidation.

Subpart C—Review and Disposition of Protests

§ 174.21 Time for review of protests.

(a) *In general.* Except as provided in paragraph (b) of this section, the district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 2 years from the date the protest was filed. If several timely filed protests are treated as part of a single protest pursuant to section 174.15, the 2-year period shall be deemed to run from the date the last such protest was filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514). **[TD 74-37.]**

(b) *Protest relating to exclusion of merchandise.* If the protest relates to an administrative action involving exclusion of merchandise from entry or delivery under any provision of the Customs laws, the district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 30 days from the date the protest was filed, unless the person filing the protest shall request an additional delay for the purpose of presenting evidence or argument with respect to the matters involved in the protest. In no event shall the district director (or the Commissioner of Customs or his designee if the protest is the subject of further review as provided for in § § 174.25 and 174.26) delay action on the protest beyond 30 days, or such additional time period as may be agreed to by the person filing the protest. Any protest filed pursuant to this paragraph shall clearly so state on its face. **[TD 74-37.]**

174.22 Accelerated disposition of protest.

(a) *Request for accelerated disposition.* Accelerated disposition of a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) may be obtained at any time after 90 days from the filing of such protest, by filing by registered or certified mail a written request for accelerated disposition with the district director to whom the protest was addressed.

(b) *Contents of request.* A request for accelerated disposition of protest shall contain the following information:

(1) The name, address, and importer number of the protestant, i.e., the importer of record or consignee, and the name and address of his agent or attorney if filed by one of these; and

(2) The date of filing and number of the protest for which accelerated disposition is requested.

(c) *Review following request.* The district director shall review the protest which is the subject of the request within 30 days from the date of mailing of a request for accelerated disposition filed in accordance with the provisions of this section, and may allow or deny the protest in whole or in part.

(d) *Failure to allow or deny protest within 30-day period.* If the district director fails to allow or deny a protest which is the subject of a request for accelerated disposition within 30 days from the date of mailing of such request, the protest shall be deemed to have been denied at the close of the 30th day following such date of mailing.

(e) *Multiple protests.* If several protests by different persons are timely filed and treated as part of a single protest pursuant to § 174.15, a request for accelerated disposition filed by any one of the protesting parties shall be treated as a request for accelerated disposition by all the parties.

§ 174.23 Further review of protests.

A protesting party may seek further review of a protest in lieu of review by the district director by filing, on the form prescribed in § 174.25, an application for such review within the time allowed and in the manner prescribed by § 174.12 for the filing of a protest. The filing of an application for further review shall not preclude a preliminary examination by the district director whose decision is the subject of the protest for the purpose of determining whether the protest may be allowed in full. If such preliminary examination indicates that the protest would be denied in whole or in part by the district director in the absence of an application for further review, however, he shall forward the protest and application for consideration in accordance with § 174.26.

§ 174.24 Criteria for further review.

Further review of a protest which would otherwise be denied by the district director shall be accorded a party filing an application for further review which meets the requirements of § 174.25 when the decision against which the protest was filed:

(a) Is alleged to be inconsistent with a ruling of the Commissioner of Customs or his designee, or with a decision made in any district with respect to the same or substantially similar merchandise; **[TD 71-123.]**

(b) Is alleged to involve questions of law or fact which have not been ruled upon by the Commissioner of Customs or his designee or by the Customs courts; **[TD 75-186.]**

(c) Involves matters previously ruled upon by the Commissioner of Customs or his designee or by the Customs courts but facts are alleged or legal arguments presented which were not considered at the time of the original ruling; or **[TD 75-186.]**

(d) Is alleged to involve questions which the Headquarters Office, United States Customs Service, refused to consider in the form of a request for internal advice pursuant to § 177.11(b)(5) of this chapter. **[TD 75-186.]**

§ 174.25 Application for further review.

(a) *Form and number of copies.* An application for further review may be filed on the same Customs Form 19 used for filing the protest for which further review is requested, or on a separate Customs Form 19. In either case, the Customs Form 19 shall be filed in quadruplicate. If a fifth copy of the application is presented for the purpose of having recorded thereon the date of its receipt, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the application. **[TD 78-99.]**

(b) *Contents.* An application for further review shall contain the following information:

(1) Information identifying the protest to which it applies and the protesting party and his importer number;

(2) Allegations that the protesting party:

(i) Has not previously received an adverse administrative decision from the Commissioner of Customs or his designee nor has presently pending an application for an administrative decision on the same claim with respect to the same category of merchandise; and

(ii) Has not received a final adverse decision from the Customs courts on the same claim with respect to the same category of merchandise and does not have an action involving such a claim pending before the Customs courts.

(3) A statement of any facts or additional legal arguments, not part of the record, upon which the protesting party relies, including the criterion set forth in § 174.24 which justifies further review. A showing of facts that support the allegation of a criterion set forth in § 174.24(c) will constitute a ground for the granting of further review in circumstances where the applicant's inability to affirmatively make the allegations described in subparagraph (2) of this paragraph would otherwise result in its denial.

§ 174.26 Review of protest after application for further review.

(a) *Protest allowed.* If upon examination of a protest for which an application for further review was filed the district director is satisfied that the claim is valid, he shall allow the protest.

(b) *Other protests.* If upon examination of a protest for which an application for further review was filed the district director decides that the protest in his judgment should be denied in whole or in part, he shall forward the application together with the protest and appropriate documents to be reviewed as follows:

(1) A protest shall be reviewed by the Commissioner of Customs or his designee under Customs Delegation Order No. 1 (Revision 1), T.D. 69-126 (34 FR 8208), as amended from time to time, if the protest and application for review raise an issue involving either:

(i) Lack of uniformity of treatment;

(ii) The existence of an established and uniform practice;

(iii) The interpretation of a court decision or ruling of the Commissioner of Customs or his designee; or

(iv) Questions which have not been the subject of a Headquarters, U.S. Customs Service ruling or court decision.

(2) All other protests shall be reviewed by the regional commissioner of Customs or his designee for the region in which the district lies. Such designee shall be a Customs officer who did not participate directly in the decision which is the subject of the protest.

§ 174.27 Disposition after further review.

Upon completion of further review, the protest and appropriate documents forwarded for review shall be returned to the district director together with directions for the disposition of the protest.

§ 174.28 Consideration of additional arguments.

In determining whether to allow or deny a protest filed within the time allowed, a reviewing officer may consider alternative claims and additional grounds or arguments submitted in writing by the protesting party with respect to any decision which is the subject of a valid protest at any time prior to disposition of the protest. In any case in which alternative claims or additional grounds or arguments are submitted orally, they shall be considered in the allowance or denial of the protest only if submitted in writing in conjunction with, or no later than 60 days after, such oral submission. (R.S. 251, as amended, secs. 514, 624, 46 Stat. 734, as amended, 759; 19 U.S.C. 66, 1514, 1624)

§ 174.29 Allowance or denial of protests.

The district director shall allow or deny in whole or in part a protest filed in accordance with section 514, Tariff Act of 1930, as amended, 19 U.S.C. 1514) within 2 years from the date the protest was filed. If the protest is allowed in whole or in part the district director shall remit or refund any duties, charge, or exaction found to have been collected in excess, or pay any drawback found due. If the protest is denied in whole or in part the district director shall give notice of the denial in the form and manner prescribed in § 174.30.

§ 174.30 Notice of denial of protest.

(a) *Issuance of notice.* Notice of denial of a protest shall be mailed to any person filing a protest or his agent in all cases other than those in which accelerated disposition was requested and in which no action has been taken within 30 days after the date of mailing of the request. The notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of the right to file a civil action contesting the denial of the protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514). For purposes of section 515(a), Tariff Act of 1930, as amended (19 U.S.C. 1515(a)), the date appearing on such notice shall be deemed the date on which such notice was mailed. **[TD 80-271.]**

(b) *Substitution of persons designated to receive notice.* The importer of record or consignee may give notice to the district director instructing that notice of denial of any protest involving merchandise imported in his name or on his behalf shall be mailed to a person other than the person filing such protest or the designee of such person. Such notice of substitution shall be filed in quadruplicate and shall identify the protest by number and date of receipt. Notice of denial of a protest shall be mailed to the substituted person so designated only if the notice of substitution is received by the district director prior to a denial by him of such protest.

(c) *Notification of payment of increased duties.* The district director shall note on the notice of denial of a protest the payment of all liquidated duties, charges, or exactions, if he has actual knowledge of such payment at the time that the protest is denied.

§ 174.31 Judicial review of denial of protest.

Any person whose protest has been denied, in whole or in part, may contest the denial by filing a civil action in the United States Customs Court in accordance with 28 U.S.C. 2632 within 180 days after— **[TD 78-17.]**

(a) The date of mailing of notice of denial, in whole or in part, of a protest, or

(b) The date a protest, for which accelerated disposition was requested, is deemed to have been denied in accordance with § 174.22(d).

§ 174.32 Publication.

Within 120 days after issuing a protest review decision, the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR part 1 and 19 CFR part 103.

PART 175—PETITIONS BY DOMESTIC INTERESTED PARTIES

Sec.
175.0 Scope.

Subpart A—Request for Classification Appraised Value and Rate of Duty

175.1 Submission of request.
175.2 Contents of request.
175.3 Domestic interested party.

Subpart B—Petitions

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175.22 Publication of decisions following petition.
175.23 Notice of desire to contest decision.
175.24 Publication following notice of desire to contest.
175.25 Procedure at port of entry designated by petitioner.

Subpart D—Procedure Following Court Decision

175.31 Publication of notice of court decision.

Authority: R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624.

Source: T.D. 70-181, 35 FR 13432, Aug. 22, 1970, unless otherwise noted.

§ 175.0 Scope

This part sets forth the procedures applicable to requests by domestic interested parties for the classification and rate of duty applicable to designated imported merchandise, and to petitions alleging that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed upon designated imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced, or wholesaled by the petitioner. **[TD 70-181, 80-271.]**

Subpart A—Request for Classification Appraised Value and Rate of Duty

§ 175.1 Submission of request.

Written requests pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), for information as to the classification and rate of duty imposed upon designated imported merchandise shall be submitted in triplicate to the Commissioner of Customs.

§ 175.2 Contents of request.

The request for information shall contain the following information:

(a) The name of the person making the request, his principal place of business, and the fact that he is a domestic interested party; **[TD 80-271.]**

(b) A designation of the imported merchandise for which the classification appraised value and rate is requested; and

(c) A showing of the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise.

§ 175.3 Domestic interested party.

"Domestic interested party", when used in this Part, means:

(a) A manufacturer, producer, or wholesaler in the United States of a like product,

(b) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product, or

(c) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States. **[TD 80-271.]**

Subpart B—Petitions

§ 175.11 Filing of petitions.

(a) *Number of copies and where filed.* All petitions pursuant to section 516 Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be submitted to the Commissioner of Customs in triplicate.

(b) *By whom filed.* Petitions may be filed by the domestic interested parties themselves, or by duly authorized attorneys or agents on their behalf. A petition filed by a corporation shall be signed by an officer thereof, and a petition filed by a partnership shall be signed by a member thereof. **[TD 80-271.]**

§ 175.12 Contents of petition.

The petition shall be itemized as to each class or kind of merchandise involved, and shall contain the following:

(a) The name of the petitioner, his principal place of business, and the fact that he is a domestic interested party; **[TD 80-271.]**

(b) A statement showing the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner of Customs to establish the similarity between the domestic and foreign merchandise; and

(c) A presentation, in detail, of the information required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

Subpart C—Procedure Following Petition

§ 175.21 Notice of filing of petition, inspection of petition, and inspection of documents and papers.

(a) *Notice of filing of petition.* Upon the filing of a petition, a notice shall be published in the Federal Register setting forth that a petition has been filed by a domestic interested party identifying the merchandise which is the subject of the petition, and its present and claimed appraised value or classification or rate of duty. The notice shall invite interested persons to make such written submissions as they desire within such time as is specified in the notice. **[TD 74-236, 80-271.]**

(b) *Inspection of petition; inspection of documents and papers.* The petition filed by a domestic interested party will be made available for inspection by interested parties in accordance with the provisions of § 103.11(b) of this chapter. However, neither a petitioner nor other interested parties shall in any case be permitted to inspect documents or papers of the consignee or importer which are exempted from disclosure by section 103.12 of this chapter. (R.S. 251, as amended, secs. 516, 624, 46 Stat.

735, as amended, 759; 5 U.S.C. 552, 19 U.S.C. 66, 1516, 1624) **[TDs 80-271, 81-168.]**

§ 175.22 Publication of decisions following petition.

(a) *Incorrect appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon imported merchandise of the character which is the subject of a petition is found to be incorrect, the Commissioner of Customs shall so inform the petitioner, and shall cause the proper value, classification, or rate of duty to be published in the Federal Register and the weekly Customs Bulletin. Such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date of publication of such notice to the petitioner in the Customs Bulletin shall be appraised, classified, or assessed as to rate of duty in accordance with the published decision.

(b) *Correct appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon the imported merchandise which is the subject of the petition is found to be correct, the Commissioner of Customs shall so notify the petitioner, but the decision shall not be published.

§ 175.23 Notice of desire to contest decision.

If the petitioner is dissatisfied with the decision of the Commissioner that the appraised value, classification, or rate of duty is correct for the merchandise which was the subject of the petition, in accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) he may file with the Commissioner of Customs not later than 30 days after the date of the decision a notice that he desires to contest the appraised value of, classification of, or rate of duty assessed upon the imported merchandise. Such notice shall designate the port or ports at which such merchandise is being imported into the United States, and at which the petitioner desires to protest.

§ 175.24 Publication following notice of desire to contest.

Upon receipt of a properly filed petitioner's notice that he desires to contest the decision as to the appraised value of, classification of, or rate of duty assessed upon the imported merchandise, the Commissioner of Customs shall cause to be published in the Federal Register and the weekly Customs Bulletin a notice of his decision as to the proper appraised value of, classification of, or rate of duty assessed upon the imported merchandise, and of petitioner's desire to contest the decision.

§ 175.25 Procedure at port of entry designated by petitioner.

(a) *Information as to character and description of merchandise.* All information secured by the district director for the port designated by the petitioner in his notice of desire to contest as to the character and description of merchandise of the kind covered by the petition and entered after publication by the Commissioner of Customs of his decision as to the proper appraised value, classification and rate of duty, and samples of such merchandise, shall be made available to the petitioner upon application by him to the district director.

(b) *Notice of liquidation.* Notice of liquidation of the first of the entries to be liquidated which would enable the petitioner to present the issue desired shall be given to the petitioner by the district director or the designated port as required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

(c) *Further notice when issue not presented.* If, upon examination of the information and inspection of any sample supplied by the district director, the petitioner believes and the district director agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the petition, the district director shall then give the petitioner notice of the first liquidation thereafter which will permit the framing of the issue covered by the petition. The district director shall, under the same conditions, continue to give notice for so long as he is of the opinion that the petitioner affirmatively intends to contest. When the district director concludes that the petitioner does not intend to contest the decision of the Commissioner of Customs, he shall refer the matter to the Commissioner of Customs for his decision before issuing any further notice of liquidation.

Subpart D—Procedure Following Court Decision

§ 175.31 Publication of notice of court decision.

Notice of a decision of the Customs Court or of the Court of Customs and Patent Appeals which sustains, in whole or in part, a cause of action before the court under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be published by the Commissioner of Customs in the Federal Register within 10 days from the date of issuance of the court decision.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) **[TD 80-271.]**

PART 176—PROCEEDINGS IN THE CUSTOMS COURT

Sec.
176.0 Scope.

Subpart A—Service

176.1 Service of summons.
176.2 Service of notice of appeal.

Subpart B—Transmission of Records

176.11 Transmission of records to Customs Court.

Subpart C—Statement of Agreed Facts

176.21 Referral of statements of agreed facts for certification.
176.22 Deletion of protest or entry number.

Subpart D—Procedure Following Court Decision

176.31 Reliquidation following decision of court.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.S. 66, 1624.

Source: T.D. 70-181, 35 FR 13433, Aug. 22, 1970, unless otherwise noted.

§ 176.0 Scope.

This part deals with service of summons and notice of appeal in actions before the Customs Court, the transmission of records to the court, statements of agreed facts, and Customs procedures following a decision by the court. **[TD 70-181.]**

Subpart A—Service

§ 176.1 Service of summons.

When an action is initiated in the Customs Court a copy of the summons shall be served in the manner prescribed by the Customs Court upon the district director for each Customs district in which a protest cited in the summons was denied, and an additional copy shall be served upon the Assistant Chief Counsel for Customs Court Litigation, United States Customs Service, 26 Federal Plaza, New York, N.Y. 10007. (28 U.S.C. 2632, as amended)

§ 176.2 Service of notice of appeal.

When the United States is an appellee in an appeal taken to the Court of Customs and Patent Appeals, a copy of the notice of appeal shall be served upon the Assistant Chief Counsel for Customs Court Litigation. (28 U.S.C. 2601, as amended)

Subpart B—Transmission of Records

§ 176.11 Transmission of records to Customs Court.

Upon receipt of service of a summons in an action initiated in the Customs Court the following items shall be immediately transmitted to the Customs Court as part of the official record by the Customs officer concerned:

(a) Consumption or other entry;
(b) Commercial invoice;
(c) Special Customs invoice;
(d) Copy of protest and any amendments thereto;
(e) Copy of denial or protest in whole or in part;
(f) Importer's exhibits;
(g) Official samples;
(h) Any official laboratory reports;
(i) The summary sheet;

(j) In any case in which one or more of the items listed in paragraphs (a) through (i) of this section do not exist, the Customs officer shall include a statement to that effect, identifying the items which do not exist. (28 U.S.C. 2632, as amended)

Subpart C—Statement of Agreed Facts

§ 176.21 Referral of statement of agreed facts for certification.

Statements of agreed facts (also referred to as stipulations) to be used by the Department of Justice in submitting cases to the Customs Court may be referred for certification to Customs officials by the office of the Assistant Attorney General, Customs Section, Civil Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

§ 176.22 Deletion of protest or entry number.

If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a statement of agreed facts, a line shall be drawn through the number and the change shall be initiated by the authorized official making and approving the deletion.

Subpart D—Procedure Following Court Decision

§ 176.31 Reliquidation following decision of court.

(a) *Decision of U.S. Customs Court.* Except as provided in paragraph (c) of this section, an entry which is the subject of a decision of the U.S. Customs Court shall be reliquidated in accordance with the judgment order thereon at the expiration of 60 days from the date of the decision, unless an appeal or motion for a rehearing is filed. However, entries which are the subject of decisions of the court following a decision of the Court of Customs and Patent Appeals which involve the same issue, or which are based on submission of an agreed statement of fact, may be reliquidated immediately upon receipt of the judgment orders from the U.S. Customs Court.

(b) *Decision of the Court of Customs and Patent Appeals.* Except as provided in paragraph (c) of this section, an entry covering merchandise which is the subject of a decision of the Court of Customs and Patent Appeals shall be reliquidated at the expiration of 90 days from the date of entry of decision by that court and only upon receipt of the judgment order from the U.S. Customs Court. However, no such entry shall be reliquidated pursuant to such order if a petition for certiorari is taken to the Supreme Court.

(c) *Waiver of right of appeal.* Upon receipt of a letter from the Assistant Attorney General, Civil Division, Department of Justice, signed by the Chief, Customs Section, advising that no appeal will be taken from a decision of the U.S. Customs Court or that it has been determined that no petition for certiorari shall be filed in the Supreme Court to review a decision of the Court of Customs and Patent Appeals, any entry or entries covered by such decision may be reliquidated pursuant to the judgment of the U.S. Customs Court prior to the expiration of the times specified in paragraphs (a) and (b) of this section. (Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

PART 177—ADMINISTRATIVE RULINGS

Sec.
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Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; (5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1624).

Source: T.D. 75-186, 40 FR 31929, July 30, 1975.

§ 177.0 Scope.

This part relates to the issuance of rulings to importers and other interested persons by the Headquarters Office of the United States Customs Service or the Regional Commissioner of Customs, Region II, New York ("Regional Commissioner, Region II"). It describes the situations in which a ruling may be requested, the procedures to be followed in requesting a ruling, the conditions under which a ruling will be issued, the effect of a ruling when it is issued, and the publication of rulings in the Customs Bulletin. The rulings issued under the provisions of this part will usually be prospective in application and, consequently, will usually not relate to specific matters or situations presently or previously under consideration by any Customs Service field office. Accordingly, the rulings requested under the provisions of this part should be distinguished from the administrative rulings, determinations, or decisions which may be requested under procedures set forth elsewhere in this chapter, including, but not limited to, those set forth in Part 12 (relating to submissions of proof of admissibility of articles detained under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)), Part 103 (relating to disclosure of information in Customs files), Part 133 (relating to disputed claims of piratical copying of copyrighted matter), Subpart C of Part 152 (relating to determinations concerning the dutiable value of merchandise by Customs field officers), Part 171 (relating to fines, penalties, and forfeitures), Part 172 (relating to liquidated damages), Part 174 (relating to protests), and Part 175 (relating to petitions filed by domestic interested parties pursuant to section 516 of the Tariff Act of 1930, as amended). Nor do the provisions of Part 177 apply to requests for decisions of an operational, administrative, or investigative nature which are properly within the cognizance of a Customs Headquarters Office other than the Office of Regulations and Rulings. **[TD's 75-186, 80-271, 80-285.]**

§ 177.1 General ruling practice and definitions.

(a) *The issuance of rulings generally*—(1) *Prospective transactions.* It is in the interest of the sound administration of the Customs and related laws that persons engaging in any transaction affected by those laws fully understand the consequences of that transaction prior to its consummation. For this reason, the Headquarters Office of the United States Customs Service or the Regional Commissioner, Region II, will give full and careful consideration to written requests from importers or other interested parties for rulings or information setting forth, with respect to a specifically described Customs transaction, a definitive interpretation of applicable law, or other appropriate information. Generally, a ruling may be requested under the provisions of this part only with respect to prospective transactions—that is, transactions which are not already pending before a Customs Service office by reason of arrival, entry, or otherwise. **[TD 80-285.]**

(2) *Current or completed transactions*—(i) *Current transactions.* A question arising in connection with a Customs transaction already before a Customs Service office will normally be resolved by that office in accordance with the principles and precedents previously announced by the Headquarters Office. If such a question cannot be resolved on the basis of clearly established rules set forth in the Customs and related laws, or in the regulations thereunder, or in applicable Treasury Decisions, rulings, opinions, or court decisions published in the Customs Bulletin, that office may be requested to forward the question to the Headquarters Office for consideration, as more fully described in § 177.11.

(ii) *Completed transactions.* A question arising in connection with an entry of merchandise which has been liquidated, or in connection with any other completed Customs transaction, may not be the subject of a ruling request.

(b) *Oral advice.* The Customs Service will not issue rulings in response to oral requests. Oral opinions or advice of Customs Service personnel are not binding on the Customs Service. However, oral inquiries may be made to Customs Service offices regarding existing rulings, the scope of such rulings, the types of transactions with respect to which the Headquarters Office or the Regional Commissioner, Region II, will issue rulings, the scope of the rulings which may be issued, or the procedures to be followed in submitting ruling requests, as described in this part **[TD 80-285.]**

(c) *Who may request a ruling.* A ruling may be requested by any person who, as an importer or exporter of merchandise, or otherwise, has a direct and demonstrable interest in the question or questions presented in the ruling request, or by the authorized agent of such person. A "person" in this context includes an individual, corporation, partnership, association, or other entity or group.

(d) *Definitions.* (1) A "ruling" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that interprets and applies the provisions of the Customs and related laws to a specific set of facts. A "ruling letter' is a ruling issued in response to a written request therefor and set forth in a letter addressed to the person making the request or his designee. A "published ruling" is a ruling which has been published in the Customs Bulletin.

(2) An "information letter" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that does no more than call attention to

a well-established interpretation or principle of Customs law, without applying it to a particular set of facts. An information letter may be issued in response to a request for a ruling when (i) the request suggests that general information, rather than a ruling, is actually being sought, (ii) the request is incomplete or otherwise fails to meet the requirements set forth in this part, or (iii) the ruling requested cannot be issued for any other reason, and (iv) it is believed that general information may be of some benefit to the party making the request. **[TD 80-285.]**

(3) A "Customs transaction" is an act or activity to which the Customs and related laws apply. A "prospective" Customs transaction is one that is contemplated or is currently being undertaken and has not resulted in any arrival or the filing of any entry or other document, or in any other act to bring the transaction, or any part of it, under the jurisdiction of any Customs Service office. A "current" Customs transaction is one which is presently under consideration by a field office (port, district, or region) of the Customs Service. A "completed" Customs transaction is one which has been acted upon by a Customs Service field office and with respect to which that office has issued a determination which is final in nature, but is (or was) subject to appeal, petition, protest, or other review, as provided in the applicable Customs laws and regulations. In a series of identical, recurring transactions, each transaction shall be considered an individual transaction for purposes of this part.

(4) An "authorized agent" is a person expressly authorized by a principal to act on his behalf. A ruling requested by an attorney or other person acting as an agent must include a statement describing the authority under which the request is made. With the exception of attorneys whose authority to represent is known, any person appearing before the Customs Service as an agent in connection with a ruling request may be required to present evidence of his authority to represent the principal. The foregoing requirements will not apply to an individual representing his full-time employer, or to a bona-fide officer, director, or other qualified representative of a corporation, association, or organized group.

(5) The term "Customs and related laws," as generally used in this part, includes any provision of the Tariff Act of 1930, as amended (including the Tariff Schedules of the United States), or the Customs Regulations, or any provision contained in other legislation (including the navigation laws), regulations, treaties, orders, proclamations, or other agreements administered by the Customs Service.

(6) The term "Headquarters Office," as used herein, means the Office of Regulations and Rulings at Headquarters, United States Customs Service, Washington, D.C.

§ 177.2 Submission of ruling requests.

(a) *Form.* A request for a ruling should be in the form of a letter. Requests for Valuation and Carrier rulings should be addressed to the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, D.C. 20229. The Division and Branch in the Office of Regulations and Rulings to which the request should be directed may also be indicated, if known. Requests for Tariff Classification rulings should be addressed to the Regional Commissioner of Customs, Region II, Attn: Classification and Ruling Requests, New York, New York, 10048. **[TD 80-285.]**

(b) *Content*—(1) *Generally.* Each request for a ruling must contain a complete statement of all relevant facts relating to the transaction. Such facts include the names, addresses, and other identifying information of all interested parties (if known); the name of the port or place at which any article involved in the transaction will arrive or be entered, or which will otherwise have jurisdiction with respect to the act or activity described in the transaction; and a description of the transaction itself, appropriate in detail to the type of ruling requested.

(2) *Description of transaction*—(i) *Generally.* The Customs transaction to which the ruling request relates must be described in sufficient detail to permit the proper application of relevant Customs and related laws.

(ii) *Tariff classification rulings.*

(A) If the transaction involves the importation of an article for which a ruling as to its proper classification under the provisions of the Tariff Schedules of the United States is requested, the request for a ruling should include a full and complete description of the article and whenever germane to the proper classification of the article, information as to the article's chief use in the United States, its commercial, common, or technical designation, and, where the article is composed of two or more materials, the relative quantity (by weight and by volume) and value of each. The ruling request should also note, whenever germane, the purchase price of the article, and its approximate selling price in the United States.

(B) Ruling letters issued by the Regional Commissioner, Region II, are limited to prospective transactions. The Regional Commissioner, Region II, shall not prepare final decisions under section 177.11 (Requests for Advice by Field Offices), section 174.23 (Further Review of Protests), section 177.10 (Change of Practice), 19 U.S.C. 1516 (petitions under section 516, Tariff Act of 1930), or 14.3(g)(1) Customs Manual ("difference cases").

(C) The requesting party may send the request directly to the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C. 20229. The Headquarters Office retains authority to independently review all tariff classification ruling letters issued by the Regional Commissioner, Region II. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification set forth, he may petition the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C., for review of the ruling. **[TD 80-285.]**

(iii) *Valuation rulings.* If the transaction involves the valuation of an article for Customs purposes, the request for a ruling should include of the applicable information described in subparts C and D of Part 152 of this chapter, and, insofar as is relevant, the information which would be required on a Special Customs Invoice, as described in Subpart F of Part 141 of this chapter. The request should also describe the nature of the transaction (whether f.o.b./c.i.f., ex-factory, or some other arrangement), the relationship (if any) of the parties, whether the transaction was at arm's-length, whether there have been other sales of the same or similar merchandise in the country of exportation, whether an agency relationship exists, or any other information relevant to a determination under section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402).

(iv) *Carrier rulings.* If the transaction involves a vessel, the request for a ruling should include information relating to place of build and nationality of registration and, if to be used in waters under the jurisdiction of the United States, the exact place or places of intended use, if known. If the request for a ruling involves a determination as to whether or not the primary object of a contemplated voyage would be considered to be coastwise transportation in violation of 46 U.S.C. 289 (see § 4.80a of this chapter), the request should completely identify the voyage, including the proposed time of arrival at and departure from every port on the itinerary and any coordination of the voyage with special events at coastwise ports, and should be accompanied by samples, if available, of brochures, advertising, and other information that may be relevant to a determination of the primary object of the proposed voyage.

(3) *Samples.* Each request for a ruling regarding the status of an article under any Customs or related law affecting the importation or arrival of that article should be accompanied by photographs, drawings, or other pictorial representations of the article and, whenever possible, by a sample article, unless a precise description of the article is not essential to the ruling requested. Any article consisting of materials in chemical or physical combination for which a laboratory analysis has been prepared by or for the manufacturer should include a copy of that analysis. A sample submitted in connection with a request for a ruling becomes a part of the Customs Service file in the matter and will be retained until the ruling is issued or the ruling request is otherwise disposed of. If the return of the sample is desired, the ruling request should so state and should specify the desired means of return. A sample should only be submitted with the understanding that all or a part of it may be damaged or consumed in the course of examination, testing, analysis, or other actions undertaken in connection with the ruling request.

(4) *Related documents.* If the question or questions presented in the ruling request directly relate to matters set forth in any invoice, contract, agreement, or other document, a copy of the document must be submitted with the request. (Original documents should not be submitted inasmuch as any documents or exhibits furnished with the ruling request become a part of the Customs Service file in the matter and cannot be returned.) The relevant facts reflected in any documents submitted, and an explanation of their bearing on the question or questions presented, must be expressly set forth in the ruling request.

(5) *Prior or current transactions.* Each request for a ruling must state whether, to the knowledge of the person submitting the request, the same transaction, or one identical to it, has ever been considered, or is currently being considered by any Customs Service office or whether, to the knowledge of the person submitting the request, the issues involved have ever been considered, or are currently being considered, by the United States Customs Court, the United States Court of Customs and Patent Appeals, or any court of appeal therefrom. Where the transaction described in the ruling request is but one of a series of similar and related transactions, that fact must also be stated.

(6) *Statement of position.* If the request for a ruling asks that a particular determination or conclusion be reached in the ruling letter, a statement must be included in the request setting forth the basis for that determination or conclusion, together with a citation of all relevant supporting authority.

(7) *Privileged or confidential information.* Information which is claimed to constitute trade secrets or privileged or confidential commercial or financial information regarding the business transactions of private parties the disclosure of which would cause substantial harm to the competitive position of the person making the request (or of another interested party), must be identified clearly and the reasons such information should not be disclosed, including, where applicable, the reasons the disclosure of the information would prejudice the competitive position of the person making the request (or of another interested party) must be set forth. **[TD 80-285.]**

(c) *Signing; instructions as to reply.* The request for a ruling must be signed by a person authorized to make the request, as described in § 177.1(c). A ruling requested by a principal or authorized agent may direct that the ruling letter be addressed to the other.

(d) *Requests for immediate consideration.* The Headquarters Office and the Regional Commissioner, Region II, will normally process requests for rulings in the order they are received and as expeditiously as possible. However, a request that a particular matter be given consideration ahead of its regular order, if made in writing at the time the request is submitted, or subsequent thereto, and showing a clear need for such treatment, will be given consideration as the particular circumstances warrant and permit. Requests for special consideration made by telegram will be treated in the same manner as requests made by letter, but rulings will not ordinarily be issued by telegram. In no event can any assurance be given that a particular request for a ruling will be acted upon by the time requested. However, upon request and where a clear need is shown for such action, a collect telephone call will be made to advise that the ruling letter has been issued and is being mailed. **[TD 80-285].**

§ 177.3 Nonconforming requests for rulings.

A person submitting a request for a ruling that does not comply with all of the provisions of this part will be so notified in writing, and the requirements that have not been met will be pointed out. Such person will be given a period of 30 days from the date of the notice (or such longer period as the notice may provide) to supply any additional information that is requested or to otherwise conform the ruling request to the requirements referred to in the notice. The Customs Service file with respect to ruling requests which are not brought into compliance with the provisions of this part within the period of time allowed will be administratively closed and the request removed from active consideration until such time as the deficiencies cited in the notice are corrected. A request for a ruling that is removed from active consideration by reason of failing to comply with the provisions of this part may be treated as withdrawn.

§ 177.4 Oral discussion of issues.

(a) *Generally.* A person submitting a request for a ruling and desiring an opportunity to orally discuss the issue or issues involved should indicate that desire in writing at the time the ruling request is filed. Such a discussion will only be scheduled when, in the opinion of the Customs personnel by whom the ruling request is under consideration, a conference will be helpful in deciding the issue or issues involved or when a determination or conclusion contrary to that advocated in the ruling request is contemplated. Conferences are scheduled for the purpose of affording the parties an opportunity to freely and openly discuss the matters set forth in the ruling request. Accordingly, the parties will not be bound by any argument or position advocated or agreed to, expressly or by implication, during the conference unless either party subsequently agrees to be so bound in writing. The conference will not conclude with the issuance of a ruling letter.

(b) *Time, place, and number of conferences.* If a request for a conference is granted, the person making the request will be notified of the time and place of the conference. Except under highly unusual circumstances, the conference will be held at the Headquarters Office of the Customs Service in Washington, D.C., or at Region II, New York. No more than one conference with respect to the matters set forth in a ruling request will be scheduled, unless, in the opinion of the Customs personnel by whom the ruling request is under consideration, additional conferences are necessary. **[TD 80-285.]**

(c) *Representation.* A person whose request for a conference has been granted may be accompanied at that conference by counsel or other representatives, or may designate such persons to attend the conference in his place.

(d) *Additional information presented at conferences.* It will be the responsibility of the person submitting the request for a ruling to provide for inclusion in the Customs Service file in the matter a written record setting forth any and all additional information, documents, and exhibits introduced during the conference to the extent that person considers such material relevant to the consideration of the ruling request by the Headquarters Office.

§ 177.5 Change in status of transaction.

Each person submitting a request for a ruling in connection with a Customs transaction shall immediately advise Customs in writing of any change in the status of that transaction, as defined in § 177.1(d)(3). In particular, the Headquarters Office or the Regional Commissioner, Region II, must be advised when any transaction described in the ruling request as prospective becomes current and under the jurisdiction of any Customs Service field office. In addition, any person engaged in a Customs transaction coming under the jurisdiction of a Customs Service field office and having previously requested a ruling with respect to that transaction shall advise the field office of that fact. The field office will normally withhold action with respect to any transaction for which a ruling has previously been requested pending the disposition of the ruling request. **[TD 80-285.]**

§ 177.6 Withdrawal of ruling requests.

Any request for a ruling may be withdrawn by the person submitting it at any time prior to the issuance of a ruling letter or any other final disposition of the request. All correspondence, documents, and exhibits submitted in connection with the request will be retained in the Customs Service file and will not be returned. In addition, the Headquarters Office may forward to Customs Service field offices which have or may have jurisdiction over the transaction to which the ruling request relates, its views in regard to the transaction or the issues involved therein, as well as appropriate information derived from materials in the Customs Service file. **[TD 80-285.]**

§ 177.7 Situations in which no ruling will be issued.

(a) *Generally.* No ruling letter will be issued in response to a request for a ruling which fails to comply with the provisions of this part. Moreover, no ruling letter will be issued with regard to transactions or questions which are essentially hypothetical in nature or in any instance in which it appears contrary to the sound administration of the Customs and related laws to do so. No ruling letter will be issued in regard to a completed transaction.

(b) *Pending litigation in the United States Customs Court.* No ruling letter will be issued with respect to any issue which is pending before the United States Customs Court, the United States Court of Customs and Patent Appeals, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of a ruling letter, provided neither the Customs Service nor any of its officers or agents is named as a defendant.

§ 177.8 Issuance of rulings.

(a) *Ruling letters*—(1) *Generally.* The Headquarters Office and the Regional Commissioner, Region II, will endeavor to issue ruling letters setting forth their determinations with respect to a specifically-described Customs transaction whenever a request for such a ruling is submitted in accordance with the provisions of this part and it is in the interest of the sound administration of the Customs and related laws to do so. Otherwise, a request for a ruling will be answered by an information letter or, in those situations in which general information is likely to be of little or no value, by a letter stating that no ruling can be issued.

(2) *Submission of ruling letters to field offices.* Any person engaging in a Customs transaction with respect to which a ruling letter has been issued by the Headquarters Office or the Regional Commissioner, Region II, shall ascertain that a copy of the ruling letter is attached to the documents filed in connection with that transaction with the appropriate Customs Service field office or otherwise bring the ruling to the attention of the appropriate Customs officer. A copy of any ruling letter received after the filing of such documents shall be forwarded immediately to the appropriate Customs Service field office.

(3) *Disclosure of ruling letters.* The ruling letter shall be based on the information set forth in the ruling request. No part of the ruling letter, including names, addresses, or information relating to the business transactions of private parties, shall be deemed to constitute privileged or

confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), unless, as provided in § 177.2(b)(7), the information claimed to be exempt from disclosure is clearly identified and the reasons for the exemption are set forth. Before the issuance of the ruling letter, the person submitting the ruling request, will be notified of any decision adverse to his claim for exemption from disclosure and will, upon written request to Customs within 10 working days of the date of notification, be permitted to withdraw the ruling request. All ruling letters issued by the Headquarters Office or the Regional Commissioner, Region II, will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted). **[TD 80-285.]**

(b) *Other rulings*. The Headquarters Office may from time to time issue other rulings with respect to issues or transactions described or suggested by requests for rulings submitted under the provisions of this part, or with respect to issues or transactions otherwise brought to its attention. These rulings, which are statements of the official position of the Customs Service which are likely to be of widespread interest and application, are published in the Customs Bulletin, as described in § 177.10.

§ 177.9 Effect of ruling letters; modification or revocation.

(a) *Effect of ruling letters generally*. A ruling letter issued by the Headquarters Office or the Regional Commissioner, Region II, under the provisions of this part represents the official position of the Customs Service with respect to the particular transaction or issue described therein and is binding on all Customs Service personnel in accordance with the provisions of this section until modified or revoked. In the absence of a subsequent change of practice or other modification or revocation which affects the principle of the ruling set forth in the ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances. **[TD 80-285.]**

(b) *Application of rulings to transactions*—(1) *Generally*. Each ruling letter is issued on the assumption that all of the information furnished in connection with the ruling request and incorporated in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect. The application of a ruling letter by a Customs Service field office to the transaction to which it is purported to relate is subject to the verification of the facts incorporated in the ruling letter, a comparison of the transaction described therein to the actual transaction, and the satisfaction of any conditions on which the ruling was based. If, in the opinion of any Customs Service field office by whom the transaction is under consideration or review, the ruling letter should be modified or revoked, the findings and recommendations of that office will be forwarded to the Headquarters Office for consideration, as provided in § 177.11(b)(1)(i), prior to any final disposition with respect to the transaction by that office. Otherwise, if the transaction described in the ruling letter and the actual transaction are the same, and any and all conditions set forth in the ruling letter have been satisfied, the ruling will be applied to the transaction.

(2) *Tariff classification rulings*. Each ruling letter setting forth the proper classification of an article under the provisions of the Tariff Schedules of the United States will be applied only with respect to transactions involving articles identical to the sample submitted with the ruling request or to articles whose description is identical to the description set forth in the ruling letter.

(3) *Valuation rulings*. Each ruling letter setting forth the proper valuation of an article under the provisions of section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402), will be applied only with respect to transactions involving the same merchandise and like facts.

(4) *Carrier rulings*. Each ruling letter setting forth the applicability of the navigation laws to a vessel will be applied only with respect to transactions involving operations identical to those set forth in the ruling letter. Each ruling letter setting forth a determination as to whether or not the primary object of a contemplated voyage is coastwise transportation in violation of 46 U.S.C. 289 will be binding on the United States Customs Service with respect to any transaction identical to the facts and circumstances described in the ruling request and undertaken in reliance on the ruling letter.

(c) *Reliance on ruling letters by others*. A ruling letter is subject to modification or revocation without notice to any person, except the person to whom the letter was addressed. Accordingly, no other person should rely on the ruling letter or assume that the principles of that ruling will be applied in connection with any transaction other than the one described in the letter. However, any person eligible to request a ruling under section 177.1(c) may request information as to whether a previously-issued ruling letter has been modified or revoked by writing the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, D.C. 20229, and either enclosing a copy of the ruling letter or furnishing other information sufficient to permit the ruling letter in question to be identified.

(d) *Modification or revocation of ruling letters*—(1) *Generally*. Any ruling letter found to be in error or not in accordance with the current views of the Customs Service may be modified or revoked. Modification or revocation of a ruling letter shall be effected by Customs Headquarters by giving notice to the person to whom the ruling letter was addressed and, where circumstances warrant, by the publication of a notice or other statement in the Customs Bulletin.

(2) *Effect of modification or revocation of ruling letters*. The modification or revocation of a ruling letter will not be applied retroactively with respect to the person to whom the ruling was issued, or to any person directly involved in the transaction to which that ruling related, provided (i) The request for a ruling contained no misstatement or omission of material facts,

(ii) The facts subsequently developed are not materially different from the facts on which the ruling was based,

(iii) There has been no change in the applicable law,

(iv) The ruling was originally issued with respect to a prospective transaction, and

(v) All of the parties involved in the transaction acted in good faith in reliance upon the ruling and retroactive modification or revocation would be to their detriment.

Nothing in this subparagraph will prohibit the retroactive modification or revocation of a ruling with respect to a transaction which was not prospective at the time the ruling was issued, inasmuch as such a transaction was not entered into in reliance on a ruling from the Headquarters Office or the Regional Commissioner, Region II. **[TD 80-285.]**

§ 177.10 Publication of decisions.

(a) *Generally.*—Within 120 days after issuing any precedential decision under the Tariff Act of 1930, as amended, relating to any Customs transaction (prospective, current, or completed), the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. For purposes of this paragraph, a precedential decision includes any ruling letter, internal advice memorandum, or protest review decision. Disclosure is governed by 31 CFR, part 1, 19 CFR, part 103, and 19 CFR 177.8(a)(3). **[TD 78-394]**

(b) *Rulings regarding a rate of duty or charge.* Any ruling regarding a rate of duty or charge which is published in the Customs Bulletin will establish a uniform practice. A published ruling may result in a change of practice, it may limit the application of a court decision, it may otherwise modify an earlier ruling with respect to the classification or valuation of an article or any other action found to be in error or no longer in accordance with the current views of the Customs Service, or it may revoke a previously-published ruling or a previously-issued ruling letter. No ruling published under the provisions of this section will have the effect of changing either an earlier published ruling or a practice established by other means by imposing a higher rate of duty or charge on an article unless the earlier ruling or practice has been determined to be clearly wrong.

(c) *Changes of practice or position.* (1) Before the publication of a ruling which has the effect of changing a practice and which results in the assessment of a higher rate of duty, notice that the practice (or prior ruling on which the practice is based) is under review will be published in the Federal Register and interested parties given an opportunity to make written submissions with respect to the correctness of the contemplated change. This procedure will also be followed when the contemplated change of practice will result in the assessment of a lower rate of duty and the Headquarters Office determines that the matter is of sufficient importance to involve the interests of domestic industry. No advance notice will be provided with respect to rulings which result in a change of practice but no change in the rate of duty.

(2) Before the publication of a ruling which has the effect of changing a position of the Customs Service and which results in a restriction or prohibition, notice that the position (or prior ruling on which the position is based) is under review will be published in the Federal Register and interested parties given an opportunity to make written submissions with respect to the correctness of the contemplated change. This procedure will also be followed when the change of position will result in a holding that an activity is not restricted or prohibited and the Headquarters Office determines that the matter is of sufficient importance to involve the interests of the general public.

(d) *Limiting rulings.* A published ruling may limit the application of a court decision to the specific article under litigation, or to an article of a specific class or kind of such merchandise, or to the particular circumstances or entries which were the subject of the litigation.

(e) *Effective dates.* Except as otherwise provided for in the ruling itself, all rulings published under the provisions of this part shall be applied immediately. If the ruling involves merchandise, it will be applicable to all unliquidated entries, except that a change of practice resulting in the assessment of a higher rate of duty or increased duties shall be effective only as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after the 90th day after publication of the change in the Federal Register. **[TD 78-394]**

§ 177.11 Requests for advice by field offices.

(a) *Generally.* Advice or guidance as to the interpretation or proper application of the Customs and related laws with respect to a specific Customs transaction may be requested by Customs Service field offices from the Headquarters Office at any time, whether the transaction is prospective, current, or completed. Advice as to the proper application of the Customs and related laws to a current transaction will be sought by a Customs Service field office whenever that office is requested to do so, pursuant to paragraph (b) of this section, by an imported or other person having an interest in the transaction. Advice or guidance will be furnished by the Headquarters Office as a means of assisting Customs personnel in the orderly processing of Customs transactions under consideration by them and to insure the consistent application of the Customs and related laws in the several Customs districts. Requests for advice received by the Headquarters Office will be processed as expeditiously as possible.

(b) *Certain current transactions*—(1) *When a ruling has been issued*—(i) *Requests by field offices.* If the Headquarters Office, or the Regional Commissioner, Region II, has issued a ruling letter with respect to a particular Customs transaction and the Customs Service field office having jurisdiction over that transaction feels that the ruling should be modified or revoked, the field office will forward to the Headquarters Office, pursuant to § 177.9(b)(1), a request that the ruling be reconsidered. The field office will notify the importer or other person to whom the ruling letter was issued, in writing, that it has requested the Headquarters Office to reconsider the ruling. **[TD 80-285.]**

(ii) *Requests by importers and others.* If the importer or other person to whom a ruling letter is issued disagrees with the Customs Service field office having jurisdiction over the transaction to which the ruling relates as to the proper application of the ruling to the transaction, the field office will, upon receipt of a written request submitted in accordance with the procedure set forth in subparagraph (3) of this paragraph, request advice from the Headquarters Office as to the proper application of the ruling to the transaction.

(2) *When no ruling has been issued.* Internal advice will be sought by a Customs Service field office with respect to a current transaction for which no ruling was re-

quested or issued under the provisions of this part whenever a difference of opinion exists as to the interpretation or proper application of the Customs and related laws to the transaction, and the field office is requested to seek such advice by an importer or other person who would have been entitled, under § 177.1(c), to request a ruling with respect to the transaction, while prospective. The request must be submitted to the field office in writing and in accordance with the provisions of subparagraph (3) of this paragraph.

(3) *Form of request by importers and others.* An importer or other person requesting that a Customs Service field office seek advice from the Headquarters Office must make such a request, in writing, to the field office having jurisdiction over the transaction in question. The request shall contain a complete statement setting forth a description of the transaction, the specific questions presented, the applicable law, and an argument for the conclusions advocated. The statement must also specify whether, to the knowledge of the person submitting the statement, the same transaction, or one identical to it, has ever been considered, or is currently being considered, by any Customs Service office. In addition, the statement should indicate at which port or ports of entry identical or substantially identical merchandise has been entered.

(4) *Review of requests by importers and others.* All requests submitted by importers and other persons under subparagraph (3) of this paragraph, will be reviewed by the field office to which they are submitted. In the event a difference of opinion exists as to the description of the transaction or as to the point or points at issue, the person submitting the request will be so advised in writing. If agreement cannot be reached, both the statements of the person submitting the request and the field office will be forwarded to the Headquarters Office for consideration.

(5) *Refusal by Headquarters Office to furnish advice.* The Headquarters Office may refuse to consider the questions presented to it in the form of a request for internal advice whenever (i) the Headquarters Office determines that the period of time necessary to give adequate consideration to the questions presented would result in a withholding of action with respect to the transaction, or in any other situation, that is inconsistent with the sound administration of the Customs and related laws, and (ii) the questions presented can subsequently be raised by the importer or other interested party in the form of a protest filed in accordance with the provisions of Part 174 of this chapter.

(6) *Effect of advice received from the Headquarters Office.* Advice furnished by the Headquarters Office in response to a request therefor represents the official position of the Customs Service as to the application of the Customs laws to the facts of a specific transaction. If the field office believes that the advice furnished by the Headquarters Office should be reconsidered, it shall promptly request such reconsideration. Otherwise, the advice furnished by the Headquarters Office will be applied by the field office in its disposition of the Customs transaction in question.

(7) *Publication.* Within 120 days after issuing an internal advice memorandum, the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR part 1 and 19 CFR, part 103. **[TD 78-394]**

Parallel Reference Tables

This table shows the relation of revised sections 10.151 through 10.153 to superseded 19 CFR Part 8, and revised sections 10.161 through 10.166 to superseded 19 CFR Part 16.

Revised Sections	Superseded Section
10.151	8.3(b)
10.152	8.3(c)
10.153(a)-(g)	8.3(d)
10.161	16.26(c)
10.162	16.26(c)
10.163	16.26(b)
10.164(a)-(c)	16.26(d)(1)-(3)
10.165	16.26(d)(4)
10.166(a)-(c)	16.26(d)(5)

This table shows the relation of revised Part 101 to superseded 19 CFR Part 1.

Revised Part 101 Section	Superseded 19 CFR Section
101.0	New
101.1(a)	New
101.1(b)	1.2(a)
101.1(c)	1.2(a)
101.1(d)	1.3(a), ftn. 5
101.1(e)	New
101.1(f)	1.11
101.1(g)	1.11
101.1(h)	1.11
101.1(i)	1.11
101.1(j)	1.11
101.1(k)	1.11
101.1(l)	1.2(b), ftn. 2
101.1(m)	New
101.2(a)	1.1(a), (b)
101.2(b)	1.1(c)
101.3(a)	Ftn. 1 to 1.2(b)
101.3(b)	1.2(c)
101.4(a)	1.3(b)
101.4(b)	1.3(b) and (c)
101.4(c)	1.3(d)
101.4(d)	Ftn. 7 to 1.3(d)
101.5	1.4
101.6(a)	1.7(a), ftn. 10
101.6(b)	1.7(b)
101.6(c)	1.7(c)
101.6(d)	1.7(d)
101.6(e)	1.7(e)
101.6(f)	1.7(f)
101.6(g)	1.7(g)
101.7(a)	1.8(a)
101.7(b)	1.8(a)
101.7(b)(1)	1.8(b)
101.7(b)(2)	1.8(b) and (c)
101.8	1.9

This table shows the relation of the old sections of Part 1 to the new sections in revised Part 101.

Old Section	New Section
1.1(a)	101.2(a)
1.1(b)	101.2(a)
1.1(c)	101.2(b)
1.1(d)	None
1.1(e)	None
1.2(a)	101.1(b), (c)
1.2(b)	101.1(d)
footnote 1	101.3(a)
footnote 2	101.1(1)
1.2(c)	101.3(b)
footnote 3	101.3(b)
1.3(a)	101.1(d)
footnote 5	101.1(d)
1.3(b)	101.4(a), (b)
footnote 6	None
1.3(c)	101.4(b)
1.3(d)	101.4(c)
footnote 7	101.4(d)
1.4	101.5
1.4(a)	None
1.5	None
1.6	None
1.7(a)	101.6(a)
footnote 10	101.6(a)
1.7(b)	101.6(b)
1.7(c)	101.6(c)
1.7(d)	101.6(d)
1.7(e)	101.6(e)
1.7(f)	101.6(f)
1.7(g)	101.6(g)
1.8(a)	101.7(a), (b)
1.8(b)	101.7(b)(1), (2)
1.8(c)	101.7(b)(2)
1.9	101.8
1.10	None
1.11	101.1(f)-(k)

(This table shows the relation of sections in Revised Part 103 to Superseded Part 103)

Revised Section	Superseded Section
103.0	103.0
103.1	103.1.
103.2(a)	New.
103.2(b)	New.
103.3(a)	New.
103.3(b)	New.
103.4(a)	New.
103.4(b)	New.
103.4(c)	New.
103.4(d)	103.4(b) New.
103.4(e)	New.
103.5(a)	103.2(b), (c), and (d) New.
103.5(b)	103.2(e) New.
103.5(c)	103.2(b) and (c) New.
103.5(d)	103.2(a) New.
103.5(e)	103.2(d) New.
103.5(f)	New.
103.5(g)	New.
103.5(h)	103.6(c).
103.6(a)	103.2(f), 103.3(a).
103.6(b)	New.
103.6(c)	New.
103.6(d)	New.
103.6(e)	103.4(d) New.
103.7(a)	103.5(a) New.
103.7(b)	New.
103.7(c)	103.5(b) & (c) New.
103.8(a)	New.
103.8(b)	New.
103.9(a)	New.
103.9(b)	103.4(c)(2) New.
103.9(c)	New.
103.10(a)	New.
103.10(b)	103.9(b) New.
103.10(c)	New.
103.10(d)	New.
103.10(e)	New.
103.10(f)	New.
103.10(g)	103.9(b) New.
103.11(a)	103.7.
103.11(b)	103.8(a) and (b).
103.12(a)	103.10(a) New.
103.12(b)	103.10(b) New.
103.12(c)	New.
103.12(d)	103.10(d).
103.12(e)	103.10(e).
103.12(f)	103.10(f).
103.12(g)	103.10(g) New.
103.13(a)	New.
103.13(b)	New.
103.14(a)	103.11(a).
103.14(b)	103.11(b).
103.14(c)	103.11(c).
103.14(d)	103.11(d).
103.15(a)	103.12.
103.15(b)	New.
103.16	103.13.
103.17(a)	103.14(a).
103.17(b)	103.14(b).
103.17(c)	103.14(c).
103.17(d)	New.

This table shows the relation of the old sections of Part 103 to the new sections in Part 103.

Old Section	New Section
103.0	103.0.
103.1	103.1.
103.2(a)	103.5(d); 103.6(a).
103.2(b)-(d)	103.5(a), (c), (e).
103.2(e)	103.5(b).
103.2(f)	103.6(a).
103.4(b)	103.4(d).
103.4(c)(2)	103.9(b).
103.4(d)	103.6(e).
103.5(a)	103.7(a).
103.5(b), (c)	103.7(c).
103.6(a), (b)	Deleted.
103.6(c)	103.5(h).
103.7	103.11(a).
103.8(a), (b)	103.11(b).
103.9(b)	103.10(b); 103.10(g).
103.9(c)	103.10(c).
103.10(a)	103.12(a).
103.10(b)	103.12(b).
103.10(d)	103.12(d).
103.10(e)	103.12(e).
103.10(f)	103.12(f).
103.10(g)	103.12(g).
103.11(a)	103.14(a).
103.11(b)	103.14(b).
103.11(c)	103.14(c).
103.11(d)	103.14(d).
103.12	103.15(a).
103.13	103.16.
103.14(a)-(c)	103.17(a)-(c).

This table shows the relation of sections in revised Part 112 to 19 CFR Parts 18, 21, 24, and 25.

Revised Section	Superseded Section
112.0	New
112.1	New
112.2	18.1(c)(1); 21.1(a)
112.11	18.1
112.12	18.1(a) & (d) 24.12; 25.4(a)(35)
112.13	New
112.14	18.1(f)
112.15	New
112.21	21.1(a)
112.22(a) & (b)	21.1(a) & (b)
112.23	New
112.24	New
112.25	21.1(a)
112.26	21.1(a)
112.27	21.1(c)
112.28	21.6
112.29	21.6(a)
112.30(a)(1)-(6)	21.6(b)
112.30(a)(7) & (8)	21.1(a)
112.30(a)(9)	21.8(a)
112.30(a)(10)	21.1
112.30(b) & (c)	21.6(c)
112.30(d)	21.6(d)
112.41	21.2(a)(d)
112.42	21.2(b)
112.43	21.2(c) & (d)
112.44	21.2(f)
112.45	21.2(g)
112.46	21.2(h)
112.47	21.2(e)
112.48(a)-(e)	21.2a(a)-(c)
112.49	New

NOTE: This table shows the relation of sections in revised Part 113 to superseded 19 CFR Part 25.

Revised Section	Superseded Section
113.0	None.
113.1	None.
113.2 and 113.3	None.
113.11	25.1.
113.12	25.1.
113.13(a)(1)	25.3(a)(1).
113.13(a)(2)	25.3(a)(3).
113.13(b)	New.
113.14(a)	25.4(a)(2).
113.14(b)(1)	25.4(a)(1)(i)
113.14(b)(2)	25.4(a)(1)(ii).
113.14(c)	25.4(a)(3).
113.14(d)	25.4(a)(4).
113.14(e)(1)	25.4(a)(5).
113.14(e)(2)	25.4(a)(6).
113.14(f)(1)	25.4(a)(7).
113.14(f)(2)	25.4(a)(8).
113.14(g)(1)	25.4(a)(9).
113.14(g)(2)	25.4(a)(10).
113.14(h)	25.4(a)(11).
113.14(i)(1)	25.4(a)(12).
113.14(i)(2)	25.4(a)(13).
113.14(j)	25.4(a)(14).
113.14(k)(1)	25.4(a)(15).
113.14(k)(2)	25.4(a)(16).
113.14(l)	25.4(a)(17).
113.14(m)(1)	25.4(a)(18).
113.14(m)(2)	25.4(a)(19).
113.14(n)	25.4(a)(21).
113.14(o)	25.4(a)(22).
113.14(p)	25.4(a)(34).
113.14(q)	25.4(a)(23).
113.14(r)	25.4(a)(24).
113.14(s)	25.4(a)(25).
113.14(t)(1)	25.4(a)(26)
113.14(t)(2)	25.4(a)(27).
113.14(u)	25.4(a)(33).
113.14(v)	25.4(a)(28).
113.14(w)	25.4(a)(35).
113.14(x) (1)-(2)	New.
113.14(y)	New.
113.14(z)	25.4(a)(29).
113.14(aa)	25.4(a)(30).
113.14(bb)	25.4(a)(32).
113.14(cc)-(gg)	New.
113.15	None.
113.16	25.4(b).
113.17	25.4(c).
113.18	25.4(a).
113.21(a)	25.5(a) and 25.8(a).
113.21(b)	25.5(c).
113.21(c)	25.4(b).
113.21(d)	25.4(b).
113.21(e)	25.4(b).
113.22(a)	25.5(a).
113.22(b)	25.5(b).
113.22(c)	25.5(a).
113.23(a)	None.
113.23(b)	25.5(d).
113.23(c)	25.5(d).
113.23(d) and (e)	None.
113.24(a)	25.6(a).
113.24(b)	25.6(b).
113.25	25.5(c).
113.26(a)	25.2(a).
113.26(b)	25.2(b).
113.26(c) and (d)	25.2(b).
113.27	25.3(b).
113.31	None.
113.32(a)	25.13.
113.32(b)	25.13.
113.33(a)	25.7(b).
113.33(b)	25.7(a)
113.33(c)	None.
113.34(a)	25.8(d).
113.34(b)	25.8(a).
113.34(c)	25.8(a), 25.5(a) and 25.8(b).
113.34(d)	25.8(c).
113.35(a)	25.9(a).

Revised Section	Superseded Section
113.35(b)	25.9(a), 25.9(e), 25.9(f), and 25.9(b).
113.35(c)	25.9(a).
113.35(d)	25.9(c).
113.35(e)	25.9(d).
113.36	25.11.
113.37(a)	25.12(a).
113.37(b)	25.8(d).
113.37(c)	None.
113.37(d)	25.8(a).
113.37(e)	25.12(b).
113.37(f)	25.12(c) and 25.12(d).
113.38(a)	25.10(a).
113.38(b)	25.10(b).
113.39(a)	25.14.
113.39(b)	25.14.
113.39(c)	25.14.
113.41	25.16(a).
113.42	25.16(c).

Revised Section	Superseded Section
113.43(a)	25.18(a).
113.43(b) and (c)	25.18(c).
113.44(a)	25.18(d).
113.44(b)	25.18(d).
113.45	25.16(b).
113.46	None.
113.51	None.
113.52	25.15(e).
113.53(a)	25.17(f).
113.53(b)	25.17(f).
113.54(a)	None.
113.54(b)	None.
113.55(a)	Footnote 5.
113.55(b) and (c)	25.15(a).
113.55(d)	25.15(b), 25.15(a), and 25.15(c).
113.55(e)	25.15(d).
113.61(a)	25.4(a)(35).
113.61(b)	25.4(a)(35).
113.62(a)	25.4(a)(25).
113.62(b)	25.4(a)(25).

This table shows the relation of sections in revised Part 123 to superseded 19 CFR Part 5.

Revised Section	Superseded Section
123.0	None
123.1(a)	5.1(b)
123.1(b)	5.1(a)
123.1(c)	5.1(a)
123.2	5.1(d)
123.3	5.1(a) & (b)
123.4	5.1(b) & (c)
123.5	5.1(a) & (b)
123.6	None
123.7	5.1(b)
123.8(a)	5.2(a) & (b)
123.8(b)	5.2(b)
123.8(c)	5.2(c)
123.8(d)	5.2(d)
123.11(a)	5.7(a)
123.11(b)	5.7(b), (c), (d) & (e)
123.11(c)	5.7(f)
123.12	5.12(a)
123.13	5.12(b)
123.14	10.41(b) and (d)
123.15	10.41(g)
123.16	10.42(f)
123.17	10.42(g)
123.18	10.41(e)
123.21(a)	5.8(a), 5.10(f), (g) & (h)
123.21(b)	None
123.21(c)	None
123.22(a)	5.8(e) & (g)
123.22(b)	5.8(e)
123.22(c)	None
123.22(d)	5.8(d)
123.22(d)(1)	5.8(b)
123.22(d)(2)	5.8(e)
123.22(d)(3)	5.8(b)
123.23	5.8(f)

Revised Section	Superseded Section
123.24(a)	5.8(b) & (c)
123.24(b)	5.8(g)
123.24(c)	5.8(g)
123.25(a)	5.8(b) & (g)
123.25(b)	5.8(h)
123.26(a)	5.9(a), 5.10(f)
123.26(b)	5.9(d)
123.26(c)	5.9(b)
123.27	5.9(c)
123.28(a)	5.10(b)
123.28(b)	18.28
123.29(a)	5.10(c)(1) & (h)
123.29(b)	5.10(d), 5.10(c)(2)
123.29(c)	5.10(e) & (f)
123.29(d)	5.10(g)
123.29(e)	5.10(f)
123.31(a)	None
123.31(b)	5.11(a)
123.32	5.11(a)(1) & (2)
123.33	5.11(b)
123.34	5.11(d), 5.1(c)
123.41	None
123.42	None
123.51	18.15(e)
123.52	5.11(c)
123.61	5.1(b)
123.62	5.1(b)
123.63	5.4
123.64	5.11(a)
123.65(a)	18.15(a) & (d)
123.65(b)	18.15(a)
123.65(c)	18.15(b)
123.65(d)	18.15(c)
123.71	5.15
123.72	5.13, 10.42(e)

This table shows the relation of sections in revised Part 125 to 19 CFR Part 21.

Revised Section	Superseded Section
125.0	New
125.1	21.3
125.2	21.7(a)
125.3	21.4(a)
125.11(a)-(c)	21.4(a)
125.12	21.4(b)
125.13	21.4(c)
125.14	21.4(d)
125.21	21.5(a) & (b)
125.22	21.5(c)
125.23	21.5(d)
125.24	21.7(b)
125.31	New, 21.9
125.32	21.9(a)
125.33	21.9(a) & (b)
125.34	21.9(a) & (b)
125.35	21.9(b)
125.36	21.10
125.41	21.8(a)
125.42	21.8(c)

This table shows the relation of sections in revised Part 127 to superseded 19 CFR Parts 20, 24, and 56.

Revised Section	Superseded Section
127.0	New.
127.1(a)-(e)	New.
127.2(a)-(b)	20.2(a).
127.2(c)	20.2(b).
127.3(a)	56.1(a).
127.3(b)	56.1(a), 56.2(c)
127.3(c)	56.2(a).
127.3(d)	56.3(a).
127.3(e)	56.2(b).
127.3(f)	56.2(d).
127.11	New.
127.12(a)-(b)	New.
127.13(a)	20.1(a).
127.13(b)	20.1(c).
127.14(a)	20.3(a).
127.14(b)	20.3(b).
127.14(c)	20.3(c).
127.21	20.5(a).
127.22	20.5(d).
127.23	20.5(b).
127.24	20.5(j).
127.25(a)	20.5(e).
127.25(b)	20.5(h).
127.26	20.5(i).
127.27	20.5(a).
127.28(a)	20.5(c).
127.28(b)	New.
127.28(c)	20.5(f).
127.28(d)	20.5(g).
127.28(e)	20.4.
127.28(f)	New.
127.28(g)	20.4.
127.28(h)	20.5(g).
127.29	20.5(k).
127.31	20.6(a).
127.32	20.6(b).
127.33	20.6(c).
127.34	20.6(d).
127.35	20.6(e).
127.36	20.6(f) & (g); 24.25.
127.37(a)	20.6(h).
127.37(b)	20.6(i).

This table shows the relation of sections in revised Part 132 to superseded 19 CFR Part 12.

Revised Section	Superseded Section
132.0	New
132.1(a)-(g)	New
132.2(a)	12.49
132.2(b)	New
132.2(c)	New
132.3	12.50(a) 2nd sent.
132.4	12.50(d) 3rd sent.
132.5(a)-(c)	New
132.6	12.49
132.11(a)(1)-(2)	New
132.11(b)	12.50(a) 1st sent.
132.11(c)	12.50(b)
132.11(d)	12.50(a) 3rd sent.
132.12(a)-(b)	12.50(d)
132.12(c)	New
132.13(a)(1)-(2)	12.50(e)
132.13(b)	New
132.14(a)-(b)	New
132.14(c)	12.50(f)
132.15	12.50(c)
132.21	12.51
132.22	New
132.23(a)-(b)	12.51(b)
132.23(c)	12.51(c)
132.23(d)	12.51(d)-1st & 2nd sent.
132.24	12.51(d) 3rd sent.
132.25	12.51(f)

This table shows the relation of sections in revised Part 133 to superseded 19 CFR Part 11.

Revised Section	Superseded Section
133.0	None
133.1(a)	11.15(a)
133.1(b)	None
133.2	11.15(a)
133.3	11.15(a)
133.4	None
133.5	None
133.6	None
133.7	11.15(c)
133.11	None
133.12	11.16
133.13	11.16
133.14	None
133.15	None
133.21	11.14
133.22(a)	11.17(a)
133.22(b)	11.17(b)
133.22(c)	11.17(b)
133.23(a)	None
133.23(b)	None
133.23(c)	11.17
133.24	None
133.31(a)	11.19(a)
133.31(b)	None
133.31(c)	11.19(b)
133.31(d)	None
133.32	11.19(a)
133.33	11.19(a)
133.34	None
133.35	None
133.36	None
133.37	None
133.41	11.18
133.42(a) & (b)	11.20(a)
133.42(c)	11.20(b)
133.43(a) & (b)	11.20(c)
133.43(c)(1)	11.20(d)
133.43(c) (2-4)	None
133.44	11.20(e)
133.45(a)	11.21(a)
133.45(b)	11.21(c)
133.45(c)	None
133.46	None
133.51	None
133.52(a)	11.17(c)
133.52(b)	None
133.53	11.17(d)

This table shows the relation of sections in revised Part 134 to superseded 19 CFR Part 11.

Revised Section	Superseded Section
134.0	None
134.1(a)	11.8(a)
134.1(b)	11.8(c)
134.1(c)	None
134.1(d)	11.8(e)
134.1(e)	None
134.1(f)	None
134.2	11.8(k)
134.3	None
134.4	None
134.11	None
134.12	11.8(f)
134.13	11.8(l)
134.14(a)-(c)	11.8(g)
134.21	None
134.22(a)	11.8(h)&(i)
134.22(b)	11.8(j)
134.22(c)	None
134.22(d)	11.8(i)
134.23(a)	None
134.23(b)	None
134.24(a)	None
134.24(b)	11.8(j)
134.24(c)(1)	None
134.24(c)(2)	11.8(g)
134.24(d)(1)–(3)	None
134.31	None
134.32	11.10(a)&(b)
134.33	11.10(a)
134.34(a)&(b)	11.10(a)
134.35	11.8(e)
134.36(a)&(b)	11.10(a)
134.41(a)	11.8(a)&(d)
134.41(b)	11.8(d)
134.42	None
134.43(a)	11.8(d)
134.43(b)	11.9
134.44(a)–(c)	11.8(d)
134.45(a)–(c)	11.8(b)
134.45(d)	11.8(a)
134.46	11.8(a)(1 & 2)
134.47	11.8(a)(3)
134.51(a)	11.11(a)
134.51(b)	11.8(k)
134.51(c)	11.11(a)
134.52(a)–(e)	None
134.53(a) (1)–(2)	11.11(b)
134.53(b)	11.11(b)
134.54(a)	11.11(c)
134.54(b)&(c)	11.11(c)&(d)
134.55(a)–(d)	11.8(m)

This table shows the relation of sections in revised Part 141 to superseded 19 CFR Part 8.

Revised Section	Superseded Section
141.0	New
141.1(a)	8.1(a)
141.1(b)	8.1(b)
141.1(c)	8.1(c)
141.1(d)	8.1(b)
141.1(e)	8.1(d)
141.1(f)	8.24(b), 20.6(i)
141.2(a)–(i)	8.2(a)–(i)
141.3	New
141.4	8.3(a)
141.5	New
141.11(a)(1)	8.6(a), 8.7(a)
141.11(a)(2)	8.6(c)
141.11(a)(3)	8.6(g)
141.11(a)(4)	8.6(e)
141.11(a)(5)	8.6(f)
141.11(a)(6)	8.6(a)
141.11(b)	8.6(n)
141.12	8.6(b)
141.13	8.6(m)
141.14	8.6(j)
141.15(a)	8.6(h)&(i)
141.15(b)	8.6(h)
141.15(c)	8.6(i)
141.16(a)	8.7(a)
141.16(b)	8.7(b)
141.17	8.6(k)
141.18(a)–(b)	8.6(l)
141.19(a)	8.18(a)
141.19(b)	8.18(c) & Ftn. 23
141.19(c)	8.18(b)
141.20(a)–(c)	8.18(d)
141.31(a)–(c)	8.19(a)
141.31(d)	8.19(k)
141.32	8.19(a) & Ftn. 26a
141.33	8.19(j)
141.34	8.19(d)
141.35	New
141.36	8.19(g)
141.37(a)–(c)	8.19(e)
141.38	8.19(e)
141.39(a)–(b)	8.19(d)
141.40	8.19(c)
141.41	8.19(b)
141.42	New
141.43(a)–(c)	8.19(a) & (g)
141.44	8.19(i)
141.45	8.19(h)
141.46	8.19(a)
141.51	New
141.52(a)–(i)	8.8(f) & (g), 8.52
141.53(a)–(c)	8.8(h)
141.53(d)	8.8(i)
141.54(a)–(d)	8.6(d)
141.55	8.4(c)
141.61(a)	8.8(a)
141.61(b)	New
141.61(c)	8.8(d)
141.61(d)	8.8(c)
141.61(e)	8.8(b)
141.61(f)	8.8(a)
141.61(g)	8.8(a)
141.61(h)	8.4(b)
141.62(a)&(b)	8.4(a)
141.63	New
141.64	8.4(d) & (g)
141.65	8.20
141.66	8.4(a)
141.67	8.4(a)
141.68(a)	8.4(e)
141.68(b)	8.4(f)
141.68(c)	8.4(g)
141.68(d)	8.4(g)
141.68(e)	8.4(d)
141.69(a)–(c)	8.4(d), (g), & (h), Ftn. 3a to Part 8
141.81	8.11(a)
141.82(a)	8.11(c), 8.12(a)
141.82(b)	8.12(c)
141.82(c)	8.12(b)
141.82(d)	8.12(d), 8.51(a), 8.11(c)
141.83(a)	8.15(a)
141.83(b)	8.15(b)
141.83(c)	8.15(c)
141.84(a)–(e)	8.11(a)&(b)
141.85	New
141.86(a)	8.13(a)
141.86(b)	8.13(b)
141.86(c)	8.8(e)
141.86(d)	New
141.86(e)	8.13(a)
141.86(f)	8.13(g)
141.86(g)	8.13(f)
141.86(h)	8.13(i) & (j)
141.86(i)	8.13(a)&(h)
141.87	8.13(d)
141.88	8.13(e)
141.89	8.13(h)
141.90(a)	8.21(a)
141.90(b)	8.21(b)
141.90(c)	8.16
141.90(d)	8.21(b)
141.91(a)	8.9(a)
141.91(b)	8.9(b)
141.91(c)	New
141.91(d)	8.9(c), 8.13(c)
141.92(a)–(c)	8.15(d)
141.101(a)–(c)	New
141.102(a)	New
141.102(b)	New
141.102(c)	New
141.102(d)	8.28(c)
141.103	New
141.104	8.40(c)
141.105	8.29(d)
141.111(a)	8.23(a)&(b)
141.111(b)	8.23(a)
141.111(c)	8.23(c)&(d)
141.111(d)	8.23(a)
141.112(a)	Ftn. 20 to Pt. 8
141.112(b)	8.25(a)
141.112(c)	8.25(b)
141.112(d)	8.25(c)
141.112(e)	8.25(d)
141.112(f)	8.25(d)
141.112(g)	8.25(f)
141.112(h)	8.25(e) & (g)
141.113(a)	8.26(c)
141.113(b)	8.26(a)
141.113(c)	8.26(b)
141.113(d)	8.26(d)
141.113(e)	8.26(a),(c),(e)
141.113(f)	New
141.113(g)	New

This table shows the relation of sections in revised Part 142 to superseded 19 CFR Part 8.

Revised Section	Superseded Section
142.0	New
142.1	8.59 (a) & (b)
142.2 (a)	8.59 (c)
142.2 (b)	8.59 (f)
142.3 (a)	8.59 (c)
142.3 (b)	8.59 (g)
142.4 (a)-(c)	8.59 (d)
142.5	8.59 (e)
142.6 (a)	8.59 (k)
142.6 (b)	8.59 (k)
142.7 (a)	8.59 (i) & (j)
142.7 (b)	New
142.11 (a)-(d)	8.59 (g)
142.12	8.59 (g)
142.13	8.59 (g)
142.14 (a) & (b)	8.59 (h)
142.15	8.59 (i)
142.16	8.59 (i)

This table shows the relation of sections in revised Part 143 to superseded 19 CFR Part 8.

Revised Section	Superseded Section
143.0	New
143.1 (a)-(c)	8.27
143.2	New
143.3 (a) & (b)	8.24(a), 8.28(a), 8.29(a) & (b)
143.11 (a)	8.50 (b)
143.11 (b)	8.50 (b)
143.11 (c)	8.50 (c)
143.12	8.50 (a)
143.13 (a) & (b)	8.50 (d)
143.14	8.50 (f)
143.15	8.50 (e)
143.16	8.50 (e)
143.21 (a)-(g)	8.51 (a)
143.22	8.51 (c)
143.23 (a)-(d)	8.51a
143.24	8.51 (a)
143.25	8.51 (a)
143.26	8.51 (a)
143.27	8.51 (d)
143.28	8.51 (b)

This table shows the relation of sections in revised Part 144 to superseded 19 CFR Parts 8, 18, 19, and 56.

Revised Section	Superseded Section
144.0	New
144.1(a)	8.30(c)
144.1(b)	8.30(f)
144.1(c)	8.30(e)
144.2	8.32(a)
144.3	8.32(c)
144.4	New
144.5	New
144.6(a)	56.1(a) & (b)
144.6(b)	56.1(a), 56.3(c) & (e)
144.6(c)	56.3(b) & (d)
144.7	New
144.11(a)	8.30(a)
144.11(b)	8.30(b)
144.11(c)	8.30(d)
144.12	New
144.13	8.31(a)
144.14	8.31(b)
144.15(a)	8.30(g)
144.15(b)	8.30(h)
144.21	8.23(b) & 8.39(a)
144.22	8.39(a), 18.16(a)
144.23	8.39(c), 18.16(a)
144.24	8.39(a)
144.25	8.39(b)
144.26	8.39(e)
144.27	8.39(d)
144.28(a) & (b)	New
144.31	8.37(a)
144.31	8.37(a)
144.32(a)	8.37(b), 18.19(c)
144.32(b)	8.37(b), 8.39(d)
144.33	New
144.34(a)	19.9
144.34(b)	8.33
144.35	New
144.36(a)	18.16(a)
144.36(b)	18.17(b)
144.36(c)	18.16(a)
144.36(d)	18.16(b) & 18.17(a)
144.36(e)	18.17(c)
144.36(f)	18.18(a)
144.36(g)	18.18(b)
144.36(h)	8.36
144.37(a)	8.41, 18.19(a), 18.19(b)
144.37(b)	8.41(d) & 18.19(b)
144.37(c)	8.45
144.37(d)	8.41(b)
144.37(e)	8.43
144.37(f)	8.41(c)
144.38(a)-(c)	8.37(a)
144.38(d)	New
144.38(e)	8.38
144.41(a)-(d)	8.33(a)-(c)
144.41(e)	8.34(a)
144.41(f)-(g)	8.33(b) & (a)
144.41(h)	8.34(b)
144.42(a)-(b)	8.35(a)-(c)

This table shows the relation of sections in revised Part 145 to superseded 19 CFR Part 9.

Revised Section	Superseded Section	Revised Section	Superseded Section
145.0	New	145.34(b)	9.4
145.1(a)-(c)	9.0	145.35	9.3(b)
145.2(a)-(c)	New	145.36	9.3(c), 9.9(a) and (b)
145.3	9.13	145.37(a)	9.7(c)
145.4(a)-(d)	9.5	145.37(b)	9.7(b)
145.5	9.10(d)	145.37(c)	9.7(a)
145.11 (a) and (b)	9.1(a)	145.38	New
145.11(c)	9.1(b)	145.39	New
145.11(d)	New	145.40(a)-(d)	9.11(b)
145.12(a)	9.4	145.41	9.3(b), 9.9(a) and (b)
145.12(b)	9.3(a) and (d)	145.42(a) and (b)	9.9(a)
145.12(c)	New	145.51(a) and (b)	9.12(d) and (e)
145.12(d)	9.3(b) and (c)	145.52	New
145.13(a) and (b)	9.8(a)	145.53	9.12(a)
145.14(a)-(c)	New	145.54(a)-(c)	New
145.21	New	145.55	New
145.22	9.10(a) and (b)	145.56	New
145.23	9.10(b)	145.57	9.12(c)
145.24	9.10(b)	145.58	New
145.25	New	145.59	9.12(d)
145.26	New	145.71(a)-(c)	9.11(a)
145.31	9.6(a)	145.72	9.11(a)
145.32	9.6(b)		
145.33	New		
145.34(a)	New		

This table shows the relation of section in revised Part 148 to 19 CFR Part 10.

Revised Section	Superseded Section	Revised Section	Superseded Section
148.0	New	148.26(a)	10.21(l)
148.1	10.28	148.26(b)	10.21(m)
148.2	10.16 & New	148.27	10.21(j)
148.3	10.23	148.31	10.17(a)
148.4	New	148.32	10.42
148.5	10.19(i)	148.33(a)	10.17(b)
148.6	10.20	148.33(b)	10.17(e)
148.7	10.27	148.33(c)	10.17(c)
148.8	New	148.33(d)	10.17(d)
148.11	10.19(a)	148.33(e)	10.17(b), (h)(2)
148.12(a) & (b)	10.19(b)	148.33(f)	10.17(h) (2)
148.12(c)	New	148.34	10.17(f)
148.13(a)	10.19(c)(1)	148.35(a)	10.17(g)(1)
148.13(b)	New, 10.19(c)(3)	148.35(b)	10.17(g)(2)
148.13(c)	10.19(c)(1)	148.35(c)	10.17(i)(1)
148.13(d)	10.19(f)	148.36	10.17(h)(1), (i)(2)
148.13(e)	10.19(d)	148.37	10.17(l)(1)-(3)
148.14	10.19 (b) & (g)	148.38	10.17(m)
148.15	10.19(h)	148.39(a)	10.17(n)
148.16	10.19(e)	148.39(b)	New
148.17	10.17(j)	148.41	10.18(d)
148.18	23.5 (a) & (b)	148.42	10.18(a)
148.19	23.5(c)	148.43	10.18(f)
148.21	10.21(a)	148.44	10.18(b)
148.22	10.19 (a) & (j)	148.45	10.18(c)
148.23(a)	10.21(b)	148.46	10.18(e)
148.23(b)	10.21(b)	148.51	10.21(i)
148.23(c)	10.21 (c) & (e)	148.52	10.11, 10.12, fnte. 11
148.23(d)	10.21(k)	148.53	10.15
148.24	10.21(d), 10.19(f)	148.54	10.14
148.25(a)	10.21(f) & (g)	148.61	New
148.25(b)	New		

Revised Section	Superseded Section
148.62	10.22(b), 23.4(a), 6.7(g)
148.63(a)	23.4(c)
148.63(b)	New
148.64	10.21(i), 23.4
148.65(a)	10.22(a)
148.65(b)	New
148.66(a)	10.22(e)
148.66(b)	10.22(d), 6.7(g)
148.66(c)	10.22(e), 6.7(g)
148.67	23.4(a), (b)
148.71	New
148.72	10.24
148.73	10.25
148.74	10.26(a), (b), (c), (f)(1)
148.75	10.26a (e), (f)(2)
148.76	10.26a(g)
148.77(a)	10.26a (d), (h), (i)
148.77(b)(1)	10.26a(h)
148.77(b)(2)	New
148.77(c)	10.26a(h)
148.81(a)	New
148.81(b)	10.30a(c)
148.81(c)	New
148.81(d)	New
148.82(a)	New
148.82(b)	10.29(a), (c), & (f)
148.82(c)	10.29(b)
148.82(d)	10.29(e)
148.82(e)	10.29(a) & New
148.83(a)	10.30(b) & New
148.83(b)	New
148.84	10.29(d)
148.85	10.30(c) & (d)
148.86	10.30(a)
148.87(a)	10.30a (b), (d), & (e)
148.87(b)	10.30a (a)
148.88(a)	10.30b (a) & (d)
148.88(b)	10.30b(c)
148.88(c)	10.30b(b)
148.88(d)	New
148.89(a)	10.30a (b), (d), & (e)
148.89(b)	10.30a(f)
148.90(a)	10.30c(a)
148.90(b)	10.30c(a)
148.90(c)	10.30c(b)
148.90(d)(1)(i)	10.30c(b)
148.90(d)(1)(ii)	10.30c(b) & New
148.90(d)(1)(iii)	10.30c(b)
148.90(d)(2)	10.30c(b)
148.90(d)(3)	New
148.90(e)	10.30c(c) & (d)

This table shows the relation of sections in revised Part 151 to superseded 19 CFR Parts 8, 13, and 14.

Revised Section	Superseded Section
151.0	New
151.1	8.22(a)
151.2(a)	14.1(b)
151.2(b)	8.22(b)
151.2(c)	14.1(c)
151.3	8.4(a), 8.5(d), & 8.22(a)
151.4(a)	8.5 (a) & (c)
151.4(b)	8.5 (b) & Ftn. 4
151.4(c)	8.5 (b) (1) & (b) (3)
151.5(a)	8.5(b) (2)
151.5(b)	8.5(b) (4)
151.5(c)	8.5(b) (5)
151.6	8.22(a) & 14.2(a)
151.7(a)	14.2 (b) & (d)
151.7(b)	14.2 (b) & (d)
151.7(c)	14.2(b)
151.7(d)	14.2(c)
151.8	14.2(e)
151.9	14.2(f)
151.10	14.2(g)
151.11	8.26(b) & 14.2(h)
151.12	None
151.21(a)	Part 13, Ftn. 1
151.21(b)	Part 13, Ftn. 2
151.22	13.1(a)
151.23	13.1(b)
151.24	13.2(a)
151.25	13.9
151.26	13.3
151.27	13.2(a)
151.28(a)	13.5(a)
151.28(b)	13.5(b)
151.29	13.2(d)
151.30	13.7
151.31(a)	13.8(a)
151.31(b)	13.8(a)
151.31(c)	13.8(b)
151.41	13.10(b)
151.42 (a)-(f)	13.10(a) (2) (i)-(vi)
151.43(a)	13.10(a) (2) (ii)
151.43(b)	13.10(a) (5)
151.43(c)	13.10(a) (5) (iv)
151.43(d)	13.10(a) (5) (iv)
151.43(e)	13.10(a) (4)
151.44 (a)-(c)	13.10(a) (1)
151.43(f)	13.10(a) (3)
151.45(a)	13.10(c)
151.45(b)	13.10(d)
151.45(c)	13.10(e)
151.46	13.10(f)
151.47 (a)-(d)	New
151.51 (a) & (b)	8.46(a)-(c)
151.52(a)	8.48(a) & (b)
151.52(b)	8.48(c)
151.52(c)	8.48(d)
151.53	8.48(e)
151.54	8.48(a), (c), (f), & (g)
151.55	8.48(h)
151.61(a)	13.11(a)
151.61(b)	13.11(b), 13.14(f)
151.61(c)	13.14(a) (1)
151.61(d)	13.14(a) (2)

Revised Section	Superseded Section
151.62(a)	13.12(a)
151.62(b)	13.12(b)
161.62(c)	13.12(c)
151.62(d)	13.12(d)
151.62(e)	13.12(e)
151.62(f)	13.12(f)
151.63	13.13(a)
151.64	13.13(a)
151.65	13.13(b)
151.66	13.13(e)
151.67	13.13(d)
151.68(a)	13.14(b) (1)
151.68(b)	13.14(b) (2)
151.68(c)	13.14(b) (3)
151.69 (a) & (b)	13.14(b)
151.70	13.14(c)
151.71(a)	13.14(d)
151.71(b)-(e)	13.14(e)
151.72 (a)-(d)	13.15(a), 13.15(b)

Revised Section	Superseded Section
151.73 (a)-(c)	13.15(c)
151.74	13.15(d)
151.75	13.15(d)
151.76 (a)-(c)	13.16 & Ftn. 7 to Pt 13
151.81	13.18(a)
151.82(a)	13.17(a)
151.82(b)	13.17(b)
151.82(c)	13.17(c)
151.83	13.18(b)
151.84	13.18(c)
151.85	13.18(d)
151.91	13.19
151.101	13.20(a)
151.102(a)	13.20(b) (1)
151.102(b)	13.20(b) (2)
151.103	13.20(c)
151.104	13.20(a)
151.111	14.2(i)

This table shows the relation of sections in revised Part 152 to superseded 19 CFR Parts 8, 14, and 16.

Revised Section	Superseded Section
152.0	New
152.1(a)	14.3(c) & Ftn. 6
152.1(b)	Part 14, Ftn. 6
152.1(c)	14.3(b)
152.2	8.29(c)
152.3	16.7
152.11	New
152.12	New
152.13(a)	16.9(b)
152.13(b)	16.9(a)
152.13(c)	16.9(a) & (c)
152.13(d)	16.9(a)
152.14(a)	16.10a(a)
152.14(b)	16.10a(b)
152.14(c)	16.10a(c)
152.14(d)	16.10a(c)
152.15(a)	16.10(a), 16.10a (c) & (d), & Ftn. 11a
152.15(b)	16.10(b)
152.15(c)	16.10(c)
152.16(a)	16.10(d)
152.16(b)	16.10(e)
152.16(c)	16.10(f)
152.16(d)	New
152.16(e)	16.10(g)
152.17	16.10(h)

Revised Section	Superseded Section
152.21(a)-(c)	14.3(a)
152.22	14.3(c)
152.23	14.3(d) & Ftn. 7
152.24(a) & (b)	New
152.25	14.3(f)
152.26(a)	14.4(a)
152.26(b)	14.4(b)
152.26(c)	14.4(c)
152.26(d)	14.4(d)
152.26(e)	14.4(e)
152.31(a)	New
152.31(b)	New
152.31(c)	14.5(l)
152.32	14.5(h)
152.33	14.5(j)
152.34	14.5(c)
152.35	14.5(a)
152.36	14.5(k)
152.37	14.5(d)
152.38	14.5(e) & (b)
152.39	14.5(i)
152.40	14.5(f)
152.41	14.5(m) & Ftn. 13
152.42(a)-(c)	14.5(n)
152.43	14.5(o)

This table shows the relationship of sections in revised Part 153 to the sections in the present Part 153.

New section	Old section
153.0	153.1
153.1	153.2
153.2	153.3
153.3	153.4
153.4	New
153.5	New
153.6	153.5(a)
153.7	153.5(b)

New section	Old section
153.8	153.6
153.9	153.7
153.10	153.8
153.11	153.9
153.12	153.10
153.13	153.11
153.14	153.12
153.15	153.18

New section	Old section	New section	Old section
153.16	153.13	153.39	New
153.17	153.16	153.40	153.37
153.18	153.17	153.41	153.38
153.21	153.23(a)	153.42	153.39
153.22	153.23(b)	153.43	153.40
153.23	153.23(c)	153.44	153.41
153.25	153.25	153.45	153.42
153.26	153.26	153.46	153.43
153.27	153.27	153.48	153.48
153.28	153.28	153.49	153.49
153.29	153.29	153.50	153.50
153.30	153.30	153.51	153.51
153.31	153.31	153.52	153.52
153.32	153.32	153.53	153.53
153.33	153.15	153.54	New
153.34	153.33	153.55	153.54
153.35	153.34	153.56	153.55
153.36	153.35	153.57	153.56
153.37	153.36	153.64	153.64
153.38	New		

This table shows the relation of sections in revised Part 158 to
19 CFR Part 15.

Revised Section	Superseded Section	Revised Section	Superseded Section
158.0	New.	158.26 (a)–(c)	15.1(c).
158.1 (a) and (b)	15.8(c).	158.27 (a)–(c)	15.1(d).
158.2	15.8(a) (1).	158.28	15.1(g).
158.3	15.8(a) (2).	158.29	15.1(e).
158.4	15.8(a) (2) and (d).	158.30 (a) and (b)	15.1(f).
158.5 (a) and (b)	15.8(a) (3).	158.41	15.5.
158.6	15.8(b).	158.42 (a)–(e)	15.3 (a) and (b).
158.11(a)	15.10(a).	158.43(a)	15.4(a).
158.11(b)	15.10(b).	158.43(b)	15.4(a).
158.12 (a) and (b)	New.	158.43(c)	15.4(c).
158.13(a)	15.7(a).	158.43(d)	New.
158.13(b)	15.7(b).	158.43(e)	15.4(d).
158.13(c)	New.	158.44(a)	15.6(a).
158.14 (a) and (b)	15.2 and footnote 3.	158.44(b)	15.6(a).
158.21	15.1(a) footnote 2.	158.44(c)	15.6(b).
158.22	15.1 footnote 1.	158.45(a)	8.49 (a) and (c).
158.23	15.1(a).	158.45(b)	New.
158.24	15.1(b).	158.45(c)	8.49(b).
158.25	15.1(b).	158.45(d)	New.

This table shows the relation of sections in revised Part 159 to
superseded 19 CFR Parts 12, 16, 18.

Revised Section	Superseded Section	Revised Section	Superseded Section
159.0	New	159.8	New
159.1	Part 16, Ftn. 2	159.9(a)	16.2 (d) & (f) & 16.12(a)
159.2	16.1	159.9(b)	16.2 (d) & (g)
159.3(a) & (b)	16.2(a)	159.9(c)	16.2(d)
159.4(a)	16.5(d)	159.10(a)	16.12(b)
159.4(b)	16.2(b)	159.10(b)	16.12(b)
159.5	16.3(d)	159.10(c)	16.12(c)
159.6(a)–(d)	16.2(c)	159.21	New
159.7(a)	16.3 (c) & (d) 18.18(c)	159.21(a)	16.5(a)
159.7(b)	16.10(h) & 18.18(c)	159.21(b)	16.5(d)
159.7(c)	18.18(c)	159.21(c)	16.3(d)

Revised Section	Superseded Section
159.22(a)	16.6(a)
159.22(b)	16.5(b), 16.6(b)
159.22(c)	16.6(c)
159.22(d)	16.6(d)
159.22(e)	16.6(e)
159.22(f)	16.5(c)
159.31	16.4(e) (1)
159.32	16.4(b)
159.33	16.4(a) & 16.4(e)(1)
159.34(a) & (b)	16.4(d)
159.35	New
159.36	16.4(e)
159.36(a)	16.4(e)
159.36(b)	16.4(e)(3)
159.36(c)	16.4(e)(4) & (f)
156.36(d)	16.4(e)(5) & (f)
159.37(a)-(c)	16.4(c)
159.38	16.4(c)
159.41	New
159.42	16.19
159.43	16.20
159.44	16.25
159.45	New
159.46(a)	16.18(a)
159.46(b)	16.18(b)
159.47(a) -(f)	16.24 (a)-(f)
159.51	New
159.52	16.3 (c) & (d)
159.53	16.3(b)
159.54	16.3(a)
159.55(a)-(b)	12.6(a) & (b)
159.56	New
159.57	New

This table shows the relation of sections in revised Parts 161 and 162 to 19 CFR Part 23.

Revised Section	Superseded Section
161.0	New.
161.1	23.35.
161.2(a)	23.31 (a)-(c).
161.2(b)	23.31(d).
161.3	23.21(a); 23.8
161.4	23.30.
161.5	23.26.
161.11	23.27(a).
161.12	23.27(b), (c) and (e).
161.13	New.
161.14	23.27(d).
161.15	New.
162.0	New.
162.1	23.28.
162.2	23.29.
162.3(a)	23.1(a).
162.3(b)	23.1(c).
162.4	23.1(c).
162.5	23.1(d).
162.6	23.1(e).
162.7	23.1(d).
162.11	New; 23.11(g).
162.12	23.11(e) and (f).
162.13	23.11(d).
162.14	23.11(c).
162.15	23.11(a).
162.21(a)	23.11(a).
162.21(b)	23.11(a).
162.21(c)	23.11(b).
162.22	23.3(a)-(d); 23.10.
162.31(a)	23.23(a).
162.31(b)	23.23(b).
162.32(a)	23.23(c).
162.32(b)	23.21(b).
162.41(a)	23.6(a) and (c).
162.41(b)	23.6(b).
162.41(c)	23.6(d).
162.42	23.17(d).
162.43(a)	23.12(a) and (b).
162.43(b)	23.12(e).
162.43(c)	23.12(d) and (c).
162.44(a)	23.14(b).
162.44(b)	23.14(a).
162.44(c)	23.14CM.
162.45(a)	23.16(a).
162.45(b)	23.16(a).
162.45(c)	New.
162.45(d)	New.
162.46(a)	23.17(a).
162.46(b)	23.16(b).
162.46(c)(1)	23.17(b) and (c).
162.46(c)(2)	23.19(a).
162.46(d)	23.19(b) and (c).
162.47(a)	New.
162.47(b)	23.13(a).
162.47(c)	23.13(b).
162.47(d)	23.21(c).
162.48	23.18.
162.49(a)	23.21(a).
162.49(b)	23.22.
162.50(a)	New.
162.50(b)	23.19(a).
162.50(c)	23.19(b).
162.51	23.20(a) and (b).
162.61	23.9 (i) and (k).
162.62	23.9(h).
162.63	23.9(b).
162.64	23.9(j).
162.65(a)	23.9(b).
162.65(b)	23.9(a).
162.65(c)	23.9 (f) and (g).
162.65(d)	23.9(f)
162.65(e)	23.9(e).
162.66	23.9 (c) and (d).

This table shows the relation of sections in revised Part 171 to 19 CFR Part 23.

Revised Section	Superseded Section	Revised Section	Superseded Section
171.0	None	171.22(a)	23.25(b)
171.1(a)	23.23(d)	171.22(b)	23.25(c)
171.1(b)	23.23(c)	171.22(c)	23.34(a) & (b)
171.11	23.24(a)	171.31	23.25(e)
171.11(e)	None	171.32	23.23(c)
171.12(a)	23.24(a)	171.33	23.25(d)
171.12(b)	23.23(c)	171.41	None
171.12(c)	23.24(a)	171.42	23.24(c)
171.13(a)	23.24(a)	171.43	23.24(c)
171.13(b)	23.24(b)	171.44	23.24(d)
171.21	23.25(a)		

This table shows the relation of sections in revised Part 172 to 19 CFR Parts 8, 10, 18, and 25.

Revised Section	Superseded Section	Revised Section	Superseded Section
172.0	None	172.22(a)	25.17(a)
172.1	None	172.22(b)	25.17(b)
172.2(a)	25.15(e)	172.22(c)	25.17(c)
172.2(b)	None	172.22(d)	8.59(j)
172.11(a)	None	172.23	None
172.11(b)	None	172.31	25.19
172.12(a)	None	172.32	None
172.12(b)	None	172.33	25.17(h)
172.12(c)	None		
172.21	None		
172.21(a)	25.17(g)		
172.21(b)	10.39(e) & (f), 10.92(d), 11.11(d), 18.8(d), 21.8(c)		

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APPENDIX TO THE CUSTOMS REGULATIONS

APPENDIX

NOTE

This appendix consists mainly of regulations and statutes under which Customs officers and employees perform services for other agencies. Its primary purpose is to take the place of provisions of previous editions of the regulations that have been omitted from the present edition, and it does not purport to include all regulations and statutes under which Customs officers and employees are required to perform duties for other agencies.

As the regulations herein are subject to amendment at any time by the agencies that issued them and there necessarily will be intervals between the issuance of amendments and their inclusion in the appendix, Customs officers and employees shall continue to check the Federal Register and other available publications to keep themselves informed of such amendments.

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NAVAL HARBORS CLOSED TO FOREIGN VESSELS

Executive Order No. 1613, issued on September 23, 1912 (T.D. 32861):

It is hereby ordered that the following-named harbors viz: Tortugas, Florida; Great Harbor, Culebra; Guantanamo Naval Station, Cuba; Pearl Harbor, Hawaii; Guam; Subic Bay, Philippine Islands; Kiska, Aleutian Islands, are not, and that they shall not be made subports of entry for foreign vessels of commerce, and that said harbors shall not be visited by any commercial or privately owned vessel of foreign registry; nor by any foreign national vessel, except by special authority of the United States Navy Department in each case.

II. SHIPMENT AND DISCHARGE OF SEAMEN; MANNING OF VESSELS AND SAFETY REQUIREMENTS

DUTY OF DISTRICT DIRECTOR OF CUSTOMS TO ACT AS SHIPPING COMMISSIONER

United States Code, title 46, section 543:

Sec. 543 When officers of Customs shall act.—In any port in which no coast guard official to perform the duties of shipping commissioner shall have been appointed, the whole or any part of the business of a shipping commissioner shall be conducted by the district director of Customs of such port; and in respect of such business such customhouse shall be deemed a shipping office, and the district director of Customs to whom such business shall be committed, shall, for all purposes, be deemed a coast guard official to whom the duties of shipping commissioner within the meaning of title 53 of the Revised Statutes have been delegated. (R.S. sec. 4503.)

SEAMEN; CONTINUOUS DISCHARGE BOOK AND CERTIFICATE OF IDENTIFICATION

United States Code, title 46, sections 643, 643a:

Sec. 643 Continuous discharge book and certificate of identification—(a) Issuance; form and contents.—Every seaman upon a merchant vessel of the United States of the burden of one hundred gross tons or upward, except vessels employed exclusively in trade on the navigable rivers of the United States, shall be furnished, at the option of the seaman, with a book to be known as a continuous discharge book or with a certificate of identification, which book or certificate shall be retained by the seaman and shall contain the signature of the seaman to whom it is so furnished and a statement of his nationality, age, personal description, photograph, thumbprint, and home address. Such books or certificates shall be issued by the coast guard official to whom the duties of Shipping Commissioner have been delegated, or, at ports where no such coast guard officials have been appointed, by the district directors of Customs, in such manner and form as the Commandant of the Coast Guard shall determine. Any individual, firm, partnership, corporation, or association which shall issue any such book or certificate, or make any statement or endorsement therein, except as authorized by the provisions of this section, or issue any imitation of any such book or certificate, shall be deemed guilty of a misdemeanor and shall be imprisoned not less than one month nor more than three months, in the discretion of the court.

* * * * * * *

"(d) *Entries.* Upon the discharge of any seaman and the payment of his wages, the coast guard official to whom the duties of Shipping Commissioner have been delegated shall enter in the continuous discharge book of such seaman, if the seaman carries such a book, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, the rating (capacity in which employed) then held by such seaman, and the signature of the person making such entries and nothing more.

"(e) *Certificate of discharge; issuance; form and contents.* For the purpose of furnishing evidence of sea service in the case of seamen preferring the certificate of identification instead of the continuous discharge book, the Coast Guard shall provide a certificate of discharge, printed on durable paper, in such form as to specify the name and citizenship of the seaman to whom it is issued, the serial number of his certificate of identification, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, and the rating (capacity in which employed) then held by such seaman. Records of service entered in either continuous discharge books or certificates of discharge shall contain no reference to the character or ability of the seaman. The coast guard official to whom the duties of shipping commissioner have been delegated shall issue such certificate of discharge and make the proper entries therein, which certificate shall be signed by the seaman to whom it is issued and the master of the vessel and shall be witnessed by such coast guard official.

* * * * * * *

"(i) *Application to fishing or whaling vessels or yachts.* The provisions of this section shall not apply to fishing or whaling vessels or yachts.

* * * * * * *

"(k) *Performance of duties by collector, deputies, or masters.* Where vessels are required to sign on and discharge the crew before a coast guard official to whom the duties of shipping commissioner have been delegated and no such coast guard official is appointed or is available the functions and duties required by subsections (d) and (e) of this section to be performed by such coast guard official may be performed by a collector or deputy collector of customs; and where vessels are not required to sign on and discharge the crew before a such coast guard official the duties and functions required by subsections (d) and (e) of this section to be performed by the such coast guard official shall be performed by the master of such vessel. Any master who shall fail to perform such duties or functions shall be fined in the sum of $50 for each offense."

* * * * * * *

"*Sec. 643a Same; exception as to unrigged vessels.*—Provisions of section 643 of this title shall not apply to unrigged vessels except seagoing barges. (June 16, 1938, ch. 467, sec. 3, 52 Stat. 754.)"

CREWS AND CREW LISTS

United States Code, title 46, sections 672, 674, 675, 676, 677:

Sec. 672 Requirements, qualifications, and regulations as to crews—(a) Qualifications. No vessel of one hundred tons gross and upward, except those navigating rivers exclusively and the smaller inland lakes and except as provided in section 569 of this title, shall be permitted to depart from any port of the United States unless she has on board a crew not less than 75 per centum of which, in each department thereof, are able to understand any order given by the officers of such vessel, nor unless 65 per centum of her deck crew, exclusive of licensed officers and apprentices, are of a rating not less than able seamen. Every person shall be rated an able seaman, and qualified for service as such on the seas, who is nineteen years of age or upward, and has had at least three years' service on deck at sea or on the Great Lakes, on a vessel or vessels to which this section applies, including decked fishing vessels, and vessels in United States Government service; and every person shall be rated an able seaman, and qualified to serve as such on the Great Lakes and on the smaller lakes, bays, or sounds who is nineteen years of age or upward and has had at least eighteen months' service on deck at sea or on the Great Lakes or on the smaller lakes, bays, or sounds, on a vessel or vessels to which this section applies, including decked fishing vessels and vessels in the United States Government service; and graduates of school ships approved by and conducted under rules prescribed by the Commandant of the Coast Guard may be rated able seaman upon graduation in good standing from said school ships: Provided, That no boy shall be shipped on any vessel to which this section applies unless he meets the physical qualifications contained in regulations to be prescribed by the Commandant of the Coast Guard and that no boy shall be placed on the lookout or at the wheel except for the purpose of learning, and that in narrow and crowded waters or in low visibility none below the rating of able seaman shall be permitted at the wheel: Provided further, That no deck boy shall be held qualified to fill the place of ordinary seaman until he has had at least six months' service as deck boy: Provided further, That upon examination, under rules prescribed by the Coast Guard as to eyesight, hearing, and physical condition, such persons or graduates are found to be competent: Provided further, That upon examination, under rules prescribed by the Coast Guard as to eyesight, hearing, physical condition, and knowledge of the duties of seamanship, a person found competent may be rated as able seaman after having served on deck twelve months at sea or on the Great Lakes, but seamen examined and rated able seamen under this proviso shall not in any case compose more than one-fourth of the number of able seamen required by this section to be shipped or employed upon any vessel.

* * * * * * *

(d) *Muster of the crew on motion or information; rules and regulations; examination of applicant for certificate of service as able seaman; surrender of certificates; new certificates.* The collector of customs may, upon his own motion, and shall, upon the sworn information of any reputable citizen of the United States setting forth that this section is not being complied with, cause a muster of the crew of any vessel to be made to determine the fact, at which muster said reputable citizen must be present; and no clearance shall be given to any vessel failing to comply with the provisions of this section: Provided, That the collector of customs shall not be required to cause such muster of the crew to be made unless said sworn information has been filed with him for at least six hours before the vessel departs, or is scheduled to depart: * * *

* * * * * * *

Sec. 674 List of crew to be delivered to collector.—Before a clearance is granted to any vessel bound on a foreign voyage or engaged in the whale fishery, the master thereof shall deliver to the collector of the customs a list containing the names, places of birth and residence, and description of the persons who compose his ship's company; to which list the oath of the captain shall be annexed, that the list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them; and the collector shall deliver him a certified copy thereof. (R. S. sec. 4573.)"

Sec. 675 Certificate to list of crew; record.—In all cases of private vessels of the United States sailing from a port in the United States to a foreign port, the list of the crew shall be examined by the collector for the district from which the vessel shall clear, and, if approved of by him, shall be certified accordingly. No person shall be admitted or employed on board of any such vessel unless his name shall have been entered in the list of the crew, approved and certified by the collector for the district from which the vessel shall clear. The collector, before he delivers the list of the crew, approved and certified, to the master or proper officer of the vessel to which the same belongs, shall cause the same to be recorded in a book by him for that purpose to be provided, and the record shall be open for the inspection of all persons, and a certified copy thereof shall be admitted in evidence in any court in which any question may arise under any of the provisions of title 53 of the Revised Statutes. (R. S. sec. 4574.)

Sec. 676 Rules as to list of crew.—The following rules shall be observed with reference to vessels bound on any foreign voyage:

First. The duplicate list of the ship's company required to be made out by the master and delivered to the collector of the customs, under section 674 of this title, shall be a fair copy in one uniform handwriting without erasure or interlineation.

Second. It shall be the duty of the owners of every such vessel to obtain from the collector of the customs of the district from which the clearance is made, a true and certified copy of the shipping articles containing the names of the crew, which shall be written in a uniform hand, without erasures or interlineations.

Third. These documents, which shall be deemed to contain all the conditions of contract with the crew as to their service, pay, voyage, and all other things, shall be produced by the master, and laid before any consul of the United States, whenever he may deem their contents necessary to enable him to discharge the duties imposed upon him by law toward any mariner applying to him for his aid or assistance.

Fourth. All interlineations, erasures, or writing in a hand different from that in which such duplicates were originally made, shall be deemed fraudulent alterations, working no change in such papers, unless satisfactorily explained in a manner consistent with innocent purposes and the provisions of law which guard the rights of mariners.

Fifth. If any master of a vessel shall proceed on a foreign voyage without the documents required, or refuse to produce them when required, or to perform the duties imposed by this section, or shall violate the provisions thereof, he shall be liable to each and every individual injured thereby in damages, to be recovered in any court of the United States in the district where such delinquent may reside or be found, and in addition thereto be punished by a fine of $100 for each offense.

"Sixth. It shall be the duty of the boarding officer to report all violations of this section to the collector of the port where any vessel may arrive, and the collector shall report the same to the Commandant of the Coast Guard and to the United States attorney in his district. (R. S. sec. 4575; Feb. 27, 1877, ch. 69, sec. 1, 19 Stat. 252; Feb. 14, 1903, ch. 552, sec. 10, 32 Stat. 829; Apr. 5, 1906, ch. 1366, sec. 3, 34 Stat. 100; Mar. 4, 1913, ch. 141, sec. 1, 37 Stat. 736.)"

"*Sec. 677 Production of copy of list on return of vessel; production of persons named.*—The master of every vessel bound on a foreign voyage or engaged in the whale fishery shall exhibit the certified copy of the list of the crew to the first boarding officer at the first port in the United States at which he shall arrive on his return, and also produce the persons named therein to the boarding officer, whose duty it shall be to examine the men with such list and to report the same to the collector; and it shall be the duty of the collector at the port of arrival, where the same is different from the port from which the vessel originally sailed, to transmit a copy of the list so reported to him to the collector of the port from which such vessel originally sailed. For each failure to produce any person on the certified copy of the list of the crew the master and owner shall be severally liable to a penalty of $400, to be sued for, prosecuted, and disposed of in such manner as penalties and forfeitures which may be incurred for offenses against the laws relating to the collection of duties; but such penalties shall not be incurred on account of the master not producing to the first boarding officer any of the persons contained in the list who may have been discharged in a foreign country with the consent of the consul or vice consul there residing, certified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew, nor on account of any such person dying or absconding or being forcibly impressed into other service of which satisfactory proof shall also be exhibited to the collector. (R. S. sec. 4576; Mar. 3, 1897, ch. 389, sec. 3, 29 Stat. 688; Apr. 5, 1906, ch. 1366, sec. 3, 34 Stat. 100.)"

CERTIFICATES OF INSPECTION

United States Code, title 46, sections 397, 399, 496:

Sec. 397 Certificate of inspection and equipment of barge required.—A register, enrollment, or license shall not be issued or renewed by any collector or other officer of customs to any such barge unless at the time of issue or renewal such barge has in force the certificate of inspection prescribed by section 395 of this title and on board the equipment prescribed by section 396 of this title. (May 28, 1908, ch. 212, sec. 12, 35 Stat. 428; Mar. 4, 1915, ch. 184, sec. 6, 38 Stat. 1218.)

Sec. 399 Certificate; temporary certificate; completion of voyage after expiration.—When the inspection of a steam vessel is completed and the Coast Guard approves the vessel and her equipment throughout, it shall make and subscribe a certificate, which certificate shall be verified by the oath of the coast guard official signing it, before the chief officer of the customs of the district or any other person competent by law to administer oaths. Such certificate shall be delivered to the master or owner of the vessel to which it relates, and one copy thereof shall be kept on file in the coast guard official's office, and one copy shall be delivered to the collector or other chief officer of the customs of the district in which such inspection has been made, who shall keep the same on file in his office. * * * No vessel required to be inspected * * * shall be navigated without having on board an unexpired regular certificate of inspection or such temporary certificate * * * Provided further, That no such vessel whose certificate of inspection shall expire within fifteen days of the date of her sailing shall proceed upon her voyage to such port of a foreign country not contiguous to the United States without first having procured a new certificate of inspection or the temporary certificate required by this section. (R. S. sec. 4421; Feb. 27, 1877, ch. 69, sec. 1, 19 Stat. 251; June 11, 1906, ch. 3071, 34 Stat. 230; June 25, 1910, ch. 402, 36 Stat. 831; Mar. 4, 1915, ch. 184, sec. 1, 38 Stat. 1216; Proc. No. 2695, 60 Stat. 1352; 1946 Reorg. Plan No. 3, sec. 101-104, 60 Stat. 1097.)

Sec. 496 Registry of enrollment denied to vessels not complying with law.—A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection * * * until the copy of the certificate of inspection required by this title for such vessel has been filed with said collector or other chief officer of customs: Provided, That the license granted to any vessel, if presented to any collector of customs at any time within thirty calendar days prior to the date of expiration shown thereon, may be renewed by the endorsement by the collector of customs for a period of one year from the date of expiration shown on the license, if there be on file in the office of the collector at that time a copy of the certificate of inspection * * * which is in force on the date renewal is made. (R. S. sec. 4498; Mar. 3, 1905, ch. 1457, sec. 9, 33 Stat. 1032; Mar. 4, 1915, ch. 184, sec. 5, 38 Stat. 1218; June 2, 1939, ch. 168, 53 Stat. 798.)

LOAD-LINE REQUIREMENTS

United States Code, title 46, sections 85f, 88f:

Sec. 85f Detention of vessels loaded in violation of sections 85–85g.—If any collector of customs or Coast Guard district commander has reason to believe, on compliant or otherwise, that a vessel subject to sections 85–85g of this title and to the regulations established thereunder is about to proceed to sea from a port in the United States or its possessions within his district when loaded in violation of section 85c of this title, or that any vessel exempted pursuant to section 85d of this title is about to proceed to sea from such port when loaded in violation of the laws and regulations of her country with respect to load line, he may by written order served on the master or officer in charge of such vessel detain her provisionally for the purpose of being surveyed. The collector or Coast Guard district commander shall then serve on the master a written statement of the grounds of her detention and shall appoint three disinterested surveyors to examine the vessel and her loading and to report to him, whereupon the said collector or Coast Guard district commander may release or may by written order served on the master or officer in charge of such vessel detain the vessel until she has been reloaded in whole or in part so as to conform to section 85c of this title; or, in case of a vessel exempted pursuant to section 85d of this title, so as to conform to the laws and regulations of her own country with respect to load line. If the vessel be ordered detained, the master may, within five days, appeal to the Commandant of the Coast Guard, who may, if he desires, order a further survey, and may affirm, set aside, or modify the order of the collector or Coast Guard district commander. Clearance shall be refused to any vessel which shall have been ordered detained. The owner and agent of a vessel surveyed and found in violation of this Act or regulations established thereunder shall bear the costs of the survey in addition to any penalty or fine imposed. (Mar. 2, 1929, ch. 508, sec. 7, 45 Stat. 1494, as amended by Public Law 87–620, 87th Congress, 76 Stat. 415, approved August 31, 1962; 1946 Reorg. Plan No. 3, sec. 101–104, 60 Stat. 1097.)

Sec. 88f Detention of vessels loaded in violation of sections 88–88i.—If any collector of customs or Coast Guard district commander has reason to believe on complaint or otherwise that a vessel subject to the provisions of section 88–88i of this title is about to proceed on a voyage from a port in the United States or its possessions within his district without conforming to the provisions of section 88b of this title, or when loaded in violation of section 88c of this title, or that any vessel exempted pursuant to section 88d of this title is about to proceed on a voyage from such port when loaded in violation of the laws and regulations of her country with respect to load line, he may serve on the master or officer in charge of such vessel a written order detaining the vessel for the purpose of being surveyed to determine whether or not the provisions of sections 88–88i of this title are complied with. Where the detention is on the ground that the vessel does not conform to the provisions of section 88b of this title, the collector or Coast Guard district commander shall cause an examination of the vessel to be made, and if from such examination appears that the vessel is not marked with the load line established in conformity with the provisions of sections 88–88i of this title, the collector or Coast Guard district commander shall so notify the master or officer in charge of such vessel and shall detain her until the load line shall have been duly established in accordance with section 88b of this title, provided that in cases of exceptional hardship, subject to regulations issued by the Commandant of the Coast Guard, the collector or Coast Guard district commander may cause a proper load line to be provisionally established by one of the agencies or persons designated under section 88b of this title, which provisional load line shall constitute a compliance with the provisions of sections 88–88i of this title only until completion of the particular voyage in which the vessel is at the time engaged. After such establishment or provisional establishment of a load line the collector or Coast Guard district commander shall appoint three disinterested surveyors to examine the loading of the vessel and to report to him whether such vessel is so loaded as to submerge said provisional load line and if from such report it appears that the vessel is so loaded, the collector or Coast Guard district commander may by written order served on the master or officer in charge of said vessel detain the vessel until she has been reloaded in whole or in part so as not to submerge said provisional load line or lines. Where the detention is on the ground of a supposed violation of section 88c or section 88d of this title, the collector or Coast Guard district commander shall appoint three disinterested surveyors to examine the vessel and her loading and to report to him and if from such report it appears that the vessel is loaded in violation of the provisions of section 88c or section 88d of this title, the collector or Coast Guard district commander shall so notify in writing the master or other officer in charge of such vessel and detain the vessel until she has been reloaded in whole or in part so as to conform to the provisions of section 88c or section 88d of this title. If a vessel is ordered detained by a collector or Coast Guard district commander acting under the provisions of this section, the master may within five days appeal to the Commandant of the Coast Guard, who, if he so desires, may order a further survey and may affirm, set aside, or modify the order of the collector or Coast Guard district commander. Clearance shall be refused to any vessel which shall have been ordered detained. The owner and agent of a vessel surveyed and found in violation of this Act or regulations established thereunder shall bear the costs of the survey in addition to any penalty or fine imposed. (Aug. 27, 1935, ch. 747, sec. 7, 49 Stat. 889, as amended by Public Law 87–620, 87th Congress, 76 Stat. 415, approved August 31, 1962; 1946 Reorg. Plan No. 3, sec. 101–104, 60 Stat. 1097.)

The collector shall not refuse clearance to a vessel for failure to comply with either of the above-quoted provisions of law (46 U.S.C. 85f, 88f) unless such vessel is detained by the Coast Guard.

PUBLICATION OF NORTH ATLANTIC PASSENGER ROUTES

Regulations of the United States Coast Guard relating to North Atlantic passenger routes, Code of Federal Regulations, title 33, sections 105.01–105.40:

Sec. 105.01 Passenger vessel defined.—For the purpose of this part, a vessel shall be deemed to be a passenger vessel if it carries more than twelve passengers.

Sec. 105.05 Filing notice of ship routes.—The owner or operating agent of any passenger vessel of the United States crossing the North Atlantic Ocean shall file with the collector of customs of the home port of such vessel, and, if the United States port from which such vessel sails is different from the home port, with the collector of customs at that port, notice of the ship routes which he proposes such vessel will follow on its east-bound and west-bound crossings. Such notice or notices shall be filed prior to the first sailing of the vessel from a port of the United States after the effective date of this part. Upon any subsequent North Atlantic voyage of such vessel beginning at the same port in the United States, no further notice shall be required if it is proposed that the vessel will follow the same routes, but whenever it is proposed that such vessel, when crossing the North Atlantic Ocean, will sail from a port in the United States other than that specified in the last previous notice, or will follow a route or routes different from the route or routes specified in such last notice, notice of the proposed route or routes shall be filed, as aforesaid, before the vessel sails.

Sec. 105.10 Designation of ship route.—The proposed route of any passenger vessel of the United States crossing the North Atlantic Ocean shall, whenever practicable, be designated in any notice required by this part in the terms used to designate the North Atlantic Lane Routes, as established by the proper authorities. Such route shall avoid, as far as practicable, the fishing banks of Newfoundland, north of latitude forty-three degrees north during the fishing season; and shall, as far as circumstances will permit, pass outside of regions reported or known to be endangered by ice.

Sec. 105.15 Notices deemed public documents; posting of notice in customhouse.—All notices of proposed ship routes filed with collectors of customs shall be considered public documents and copies thereof shall, while effective, be continuously posted by the respective collectors of customs in a place in the customhouse to which the public has free access.

Sec. 105.20 Posting copy of notice on vessel.—The owner or operating agent of any passenger vessel of the United States crossing the North Atlantic Ocean shall cause a copy of the proposed ship routes of the vessel to be continuously posted, while effective, in a public place in the passenger space of the vessel.

Sec. 105.25 Report of deviation from ship route.—If the master of any passenger vessel of the United States crossing the North Atlantic Ocean finds it necessary for any reason during the course of a voyage to deviate more than 20 nautical miles from the proposed ship route of such vessel, he shall be required by the owner or operating agent of such vessel, as soon as he arrives in the United States, to report such deviation to the collector of customs of the home port of such vessel and, if the first United States port from which such vessel sailed is different from the home port, to the collector of customs at that port, together with a written statement explaining the necessity for such deviation.

Sec. 105.30 Penalty for violation of regulation.—For each violation of any provision of section 3(a) of the act of June 25, 1936, or of any provision of sections 105.5, 105.10, or 105.20, the owner, or operating agent, of the passenger vessel involved in such violation shall be liable to a fine of not exceeding $100.

Sec. 105.35 Communication of violation to Coast Guard District Commander.—Information with respect to a violation or possible violation of section 3(a) of the act of June 25, 1936, or of this part coming into the possession of any officer or employee of the Treasury Department shall be communicated promptly to the commander of the Coast Guard district within which the home port of the vessel is located or if the United States port from which the vessel sailed is different from the home port, to the commander of the Coast Guard district within which that port is located.

Sec. 105.40 Procedure on violation.—The district commander receiving information with respect to a violation of section 3 (a) of the act of June 25, 1936, or of this part shall make an investigation to determine the actual facts involved. If after such investigation the district commander determines a prima facie violation of section 3 (a) of the act of June 25, 1936, or of any provision of sections 105.C5, 105.10, or 105.20 has occurred, he shall follow the procedure in 46 CFR 2.50-20.

NUMBERING OF UNDOCUMENTED VESSELS

United States Code, title 46, section 527

Sec. 527(a) Every undocumented vessel propelled by machinery of more than 10 horsepower, whether or not such machinery is the principal source of propulsion, using the navigable water of the United States, its Territories and the District of Columbia, and every such vessel owned in a State and using the high seas, shall be numbered in accordance with this Act, except—

(1) foreign vessels temporarily using the navigable waters of the United States, its Territories and the District of Columbia;

(2) public vessels of the United States;

(3) State and municipal vessels'

(4) ships' lifeboats; and

(5) vessels designated by the Secretary under section 527d(b)of this Act.

(b) The owner of an undocumented vessel required to be numbered under subsection (a) of this section shall secure a number for such vessel in the State in which it is principally used, in accordance with the State numbering system approved by the Secretary in accordance with subsection (c) of this section, or if no such numbering system has been approved by the Secretary for the State where such vessel is principally used, shall secure a number for such vessel in accordance with subsection (d) of this section. * * *

Regulations of the United States Coast Guard relating to the numbering of undocumented vessels—Code of Federal Regulations, title 46, section 172.25.

Sec. 172.25-15 Effective dates for approved State Systems of Numbering.

Alabama	January 1, 1960
Arizona	November 16, 1959
Arkansas	January 1, 1960
California	April 1, 1960
Colorado	July 1, 1960
Connecticut	January 1, 1962
Delaware	April 1, 1960
Florida	July 20, 1959
Georgia	July 1, 1960
Idaho	July 15, 1961
Illinois	March 1, 1960
Indiana	January 18, 1960
Iowa	July 4, 1961
Kansas	January 1, 1960
Kentucky	July 1, 1960
Louisiana	July 1, 1960
Maine	February 1, 1964
Maryland	July 3, 1960
Massachusetts	July 1, 1960
Michigan	March 1, 1960
Minnesota	August 24, 1959
Mississippi	July 1, 1960
Missouri	July 1, 1960
Montana	July 20, 1959
Nebraska	January 1, 1960
Nevada	May 1, 1960
New Jersey	July 16, 1962
New Mexico	July 8, 1960
New York	July 1, 1960
North Carolina	January 1, 1960
North Dakota	March 1, 1960
Ohio	March 1, 1960
Oklahoma	April 1, 1960
Oregon	January 1, 1960
Pennsylvania	February 1, 1964
Rhode Island	April 1, 1960
South Carolina	January 1, 1960
South Dakota	January 18, 1960
Texas	April 1, 1960
Utah	July 20, 1959
Vermont	January 1, 1960
Virginia	July 1, 1960
West Virginia	October 1, 1959
Wisconsin	April 1, 1960
Wyoming	June 1, 1963

III. CONSULAR SERVICES PERFORMED FOR MASTERS OF VESSELS

United States Code, title 46, section 101:

"*Sec. 101 Statement of consular services performed without fee filed.*—It shall be the duty of all masters of vessels for whom any official services shall be performed by any consular officer, without the payment of a fee, to require a written statement of such services from such consular officer, and, after certifying as to whether such statement is correct, to furnish it to the collector of the district in which such vessels shall first arrive on their return to the United States; and if any such master of a vessel shall fail to furnish such statement, he shall be liable to a fine of not exceeding $50, unless such master shall state under oath that no such statement was furnished him by said consular officer. And it shall be the duty of every collector to forward to the Secretary of the Treasury all such statements as shall have been furnished to him, and also a statement of all certified invoices which shall have come to his office, giving the dates of the certificates, and the names of the persons for whom and of the consular officer by whom the same were certified. (R. S. sec. 4213; June 26, 1884, ch. 121, sec. 13, 23 Stat. 56.)"

IV. FOREIGN QUARANTINE

Regulations of the United States Public Health Service, Department of Health, Education and Welfare, relating to foreign quarantine, Code of Federal Regulations, 1949 edition, title 42, sections 71.1 (s) (t), 71.11, 71.46, 71.47, 71.48, 71.62, 71.63, 71.72, 71.121, 71.122, 71.123, 71.124, 71.125, 71.126, 71.127, 71.128.

Sec. 71.1 Definitions.—As used in this part, terms shall have the following meaning:

* * * * * * *

(s) Port under the control of the United States.—Any seaport or airport in the United States, its territories or possessions other than the Canal Zone.

(t) Pratique.—A certificate issued by a quarantine officer releasing or provisionally releasing a vessel or aircraft from quarantine.

* * * * * * *

Sec. 71.11 Bills of health.—A vessel or aircraft at any foreign port clearing or departing for any port under the control of the United States shall not be required to obtain or deliver a bill of health.

* * * * * * *

Sec. 71.46 General provisions.—(a) A vessel or aircraft arriving at a port under the control of the United States shall undergo quarantine inspection prior to entry unless:

(1) In the current voyage the vessel or aircraft has been only in areas determined by the Surgeon General to present no significant threat of introduction of communicable disease into the United States or its possessions,[1] or

(2) In the current voyage the vessel or aircraft has received pratique at a port under the control of the United States, and since receiving such pratique has been only in areas determined by the Surgeon General to present no significant threat of introduction of communicable disease into the United States or its possessions,[1] or

(3) The vessel or aircraft possesses a duplicate of a pratique issued at a port in Canada or the Canal Zone, provided that since receiving such pratique the vessel or aircraft has been only in areas determined by the Surgeon General to present no significant threat of introduction of communicable disease into the United States or its possessions.[1]

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[1] A list of such areas and changes thereto will be published in the FEDERAL REGISTER. A current list may be obtained from the Surgeon General of the Public Health Service, Washington 25, D.C. Attention: Chief, Division of Foreign Quarantine; or from Public Health Service quarantine stations at United States ports.

(b) Notwithstanding the provisions of paragraph (a) of this section a vessel or aircraft:

(1) Shall comply with any conditions and carry out any additional measures specified in the pratique.

(2) Shall undergo quarantine inspection prior to entering a port under the control of the United States if:

(i) It has on board, or during the current voyage has had on board, a person infected or suspected of being infected with anthrax, chickenpox, cholera, dengue, diphtheria, hemolytic streptococcal infection, infectious encephalitis, measles, meningococcus meningitis, plague, poliomyelitis, psittacosis, relapsing fever, smallpox, typhoid fever, typhus, or yellow fever, or

(ii) On arrival at its first port under the control of the United States it has on board: A psittacine bird (see sec. 71.152); a dog, cat, or monkey (see sec. 71.154); or an animal or article subject to sec. 71.156 or sec. 71.157 that does not comply with admission requirements therein, or

(iii) On arrival at its first port under the control of the United States it has on board a person who, within 14 days prior to arrival of the vessel or aircraft in the port, has been in an area other than those determined by the Surgeon General to present no significant threat of introduction of communicable disease into the United States or its possessions:[1] *Provided,* That inspection shall not be required where the Chief of the Division of Foreign Quarantine finds that the entry of the vessel or aircraft would not be likely to cause the introduction of communicable disease. Reports as to whether such persons are on board shall be submitted in accordance with instructions of the Chief of the Division of Foreign Quarantine.

(3) May be required, in accordance with instructions of the Chief of the Division of Foreign Quarantine, to undergo quarantine inspection if the Chief of such Division or the medical officer in charge has reason to believe that the entry of the vessel or aircraft would be likely to cause the introduction of communicable disease.

Sec. 71.47 Vessels and aircraft of armed services.—(a) Vessels and aircraft belonging to or operated by the armed services of the United States may be exempted from quarantine inspection if the medical officer in charge is satisfied that they have complied with regulations of such armed services meeting the requirements of the regulations in this part. (For applicable regulations of the Armed Forces see Army Regulations No. 40-12; Navy Department General Order No. 20; Air Force Regulation No. 161-4.)

(b) Vessels belonging to or operated by the armed services of any foreign nation may, in the discretion of the medical officer in charge, be exempted from quarantine inspection if a commissioned medical officer of such service certifies that:

(1) Any person on board who is infected or suspected of being infected with a communicable disease will be isolated until it is determined whether or not he is infected with a quarantinable disease, and that

(2) The vessel is from a port where at the time of departure there was not present or suspected of being present cholera, plague, relapsing fever, smallpox, typhus, or yellow fever. When it is determined that any person on board such vessel is infected with a quarantinable disease, the vessel and its entire personnel shall be subject to the provisions of Subpart F of this part.

(c) Notwithstanding the exemption from quarantine inspection of a vessel or aircraft under this section, animals or articles aboard shall be required to comply with the applicable requirements of Subpart J of this part.

Sec. 71.48 Exempt vessels and aircraft subject to sanitary regulations.—A vessel or aircraft which has been exempted from quarantine inspection under sections 71.46 or 71.47 shall nevertheless be subject to the provisions of Subpart G of this part.

* * * * * * *

Sec. 71.62 General provisions: Vessels and aircraft; permission for aircraft to discharge persons and cargo—(a) Vessels.—(1) The vessel shall fly a yellow flag. It shall anchor in the quarantine anchorage and await inspection, except as provided in subparagraph (2) of this paragraph.

(2) If the medical officer in charge is of the opinion that proceeding to a designated point would not be likely to cause the introduction of communicable disease, he may direct the vessel to proceed to such a point to await inspection. He shall prescribe necessary measures to ensure that there is no movement of any person or thing onto or from the vessel without his permission, pending quarantine inspection.

(b) *Aircraft.* When an aircraft subject to quarantine inspection in accordance with this part arrives at the place of first landing (see sec. 71.502) the aircraft commander shall be responsible for the detention of the aircraft, its crew and passengers until they are released by the quarantine officer at the place of first landing. Any baggage, cargo, or other contents on board the aircraft shall be held at such place until released by the quarantine officer. (For procedure in case of emergency or forced landing, see sec. 71.504.)

Sec. 71.63 Persons: Restrictions on boarding and leaving vessels or aircraft, or having contact with persons aboard—(a) Vessels.—Except with the permission of the quarantine officer, no person other than the pilot shall board or be permitted to board any vessel subject to quarantine inspection until after it has been inspected by the quarantine officer and granted pratique. A person boarding such vessel shall be subject to the same restrictions as those imposed on the persons on the vessel. No person shall leave or be permitted to leave any vessel subject to quarantine inspection until after it has been inspected by the quarantine officer and granted pratique, except with the permission of the quarantine officer.

(b) *Aircraft.* Except with the permission of the quarantine officer, no person shall board or be permitted to board any aircraft subject to quarantine inspection or have contact with the crew or passengers of such aircraft until quarantine inspection of the aircraft, crew, and passengers has been completed. The same restrictions as those imposed on the crew and passengers shall be imposed on a person boarding such aircraft and on a person having contact with a passenger or member of the crew when the quarantine officer considers such contact a possible means of spreading a quarantinable disease.

Sec. 71.72 Disinfection of imports.—When the freight manifest of a vessel or aircraft lists articles which may require disinfection under the provisions of this part, the medical officer in charge shall disinfect them on board or request the collector of customs to keep the articles separated from the other freight pending appropriate disposition.

* * * * * * *

Sec. 71.121 General requirement: Vessels only.—Vessels subject to quarantine inspection pursuant to Subpart D of this part shall not enter a port under the control of the United States to discharge cargo or land passengers unless a certificate of free or provisional pratique has been issued to the master.

Sec. 71.122 Free pratique: Vessels only.—A certificate of free pratique shall signify that the vessel and its master may enter, discharge cargo, and land passengers.

Sec. 71.123 Provisional pratique and remand: Vessels only.—(a) A certificate of provisional pratique shall signify that the vessel may enter, but that additional measures as specified in such certificate must be taken in connection with the discharge of cargo, or the landing of passengers, or the sanitary condition of the vessel. A certificate of free pratique shall be issued after such additional measures have been completed.

(b) The medical officer in charge may remand the vessel to the next port for such additional measures as may be necessary. Vessels arriving at quarantine stations at succeeding ports of call under provisional pratique may, in the discretion of the medical officer in charge at such stations, be directed to proceed under provisional pratique to the next succeeding port for completion of quarantine measures.

(c) Failure to comply with additional measures specified in a certificate of provisional pratique shall constitute a violation of the regulations in this part, and the vessel shall become subject to all measures applicable to vessels first arriving at a port under the control of the United States from a foreign port.

Sec. 71.124 Radio pratique: Vessels only.—The medical officer in charge may grant pratique by radio to a vessel upon the basis of information regarding the vessel, its cargo and persons aboard, received prior to arrival of the vessel, when in his judgment, and in accordance with instructions by the Surgeon General, the entry of the vessel will not result in the introduction, transmission or spread of communicable diseases.

Sec. 71.125 Presentation of pratique: Vessels only.—Vessels which have undergone quarantine inspection shall present to the Collector of Customs at the port of entry the certificate of pratique, or evidence of radio pratique, issued pursuant to the provisions of this subpart.

Sec. 71.126 Pratique and remand: Aircraft only.—When all necessary quarantine and sanitary measures have been applied to the aircraft and persons and things on board, pursuant to the regulations of this part, the quarantine officer shall issue a certificate of free pratique, which may be stamped on a copy or copies of the general declaration, including the traveling general declaration, for presentation to the customs officer in charge. Pending compliance with quarantine requirements the quarantine officer may issue a certificate of provisional pratique for the aircraft, stating the measures to be carried out. When quarantine measures cannot be completed at the place of first landing, the medical officer in charge may remand the aircraft under provisional pratique to the next airport for such additional measures as may be necessary. Aircraft arriving under provisional pratique at succeeding airports may, when quarantine measures cannot be completed there, be directed to proceed under provisional pratique to the next succeeding airport for completion of quarantine measures.

Sec. 71.127 Notification of remands: Vessels and aircraft.—The quarantine officer remanding a vessel or aircraft to another port in accordance with this subpart shall give advance notification to the medical officer in charge and customs officer at the port to which the vessel or aircraft is remanded. The notification should be timed to arrive ahead of the vessel or aircraft, and should be made by telephone in the case of aircraft. The notification shall give complete information regarding measures carried out at the port effecting the remand and measures required at the port to which the vessel or aircraft is remanded.

Sec. 71.128 Vessels and aircraft not submitting to prescribed measures.—When it is desired not to comply with the requirements for a certificate of free or provisional pratique, a vessel or aircraft shall be allowed to depart forthwith, but shall not call at any other place in the United States in connection with the current voyage or flight. The vessel or aircraft shall, however, be permitted to take on fuel, water, and stores in quarantine subject to measures prescribed by the quarantine officer pursuant to the regulations in this part.

* * * * * * *

V. DELIVERY OF MAIL; SEIZURE OF LETTERS CONVEYED CONTRARY TO LAW

United States Code, title 18, section 1699:

Sec. 1699 Certification of delivery from vessel.—No vessel arriving within a port or collection district of the United States shall be allowed to make entry or break bulk until all letters on board are delivered to the nearest post office, except where waybilled for discharge at other ports in the United States at which the vessel is scheduled to call and the Postmaster General does not determine that unreasonable delay in the mails will occur, and the master or other person having charge or control thereof has signed and sworn to the following declaration before the collector or other proper customs officer:

I, A. B., master________, of the ________, arriving from________________, and now lying in the port of________________, do solemnly swear (or affirm) that I have to the best of my knowledge and belief delivered to the post office at________________, every letter and every bag, packet, or parcel of letters on board the said vessel during her last voyage, or in my possession or under my power or control, except where waybilled for discharge at other ports in the United States at which the said vessel is scheduled to call and which the Postmaster General has not determined will be unreasonably delayed by remaining on board the said vessel for delivery at such ports.

Whoever, being the master or other person having charge or control of such vessel, breaks bulk before he has arranged for such delivery or onward carriage, shall be fined not more than $100. (June 25, 1948, ch. 645, 62 Stat. 777; July 3, 1952, ch. 553, 66 Stat. 325.)

United States Code, title 18, section 1724:

Sec. 1724 Postage on mail delivered by foreign vessels.—Except as otherwise provided by treaty or convention the Postmaster General may require the transportation by any steamships of mail between the United States and any foreign port at the compensation fixed under authority of law. Upon refusal by the master or the commander of such steamship or vessel to accept the mail, when tendered by the Postmaster General or his representative, the collector or other officer of the port empowered to grant clearance, on notice of the refusal aforesaid, shall withhold clearance until the collector or other officer of the port is informed by the Postmaster General or his representative that the master or commander of the steamship or vessel has accepted the mail or that conveyance by his steamship or vessel is no longer required by the Postmaster General. As amended Sept. 25, 1951, c. 413, section 1(4), 65 Stat. 336.

United States Code, title 39, sections 904, 905, 906:

Sec. 904. Seizing and detaining letters.—A postal inspector, customs officer, or United States marshal or his deputy, may seize at any time, letters and bags, packets or parcels containing letters which are being carried contrary to law on board any vessel or on any post road. The officer who makes the seizure shall convey the articles seized to the nearest post office; or by direction of the Postmaster General or the Secretary of the Treasury, he may detain them until two months after the final determination of all suits and proceedings which may be brought within six months after the seizure against any person for sending or carrying the letters.

Sec. 905. Searching vessels for letters.—A postal inspector when instructed by the Postmaster General to make examinations and seizures and any customs officer without special instructions shall search vessels for letters which may be on board, or which may have been conveyed contrary to law.

Sec. 906. Disposition of seized mail.—Every package or parcel seized by a postal inspector, customs officer, or United States marshal or his deputies, in which a letter is unlawfully concealed, shall be forfeited to the United States. The same proceedings may be used to enforce forfeitures as are authorized in respect of goods, wares, and merchandise forfeited for violation of the revenue laws. Laws for the benefit and protection of customs officers making seizures for violating revenue laws apply to officers making seizures for violating the postal laws.

VI. IMMIGRATION REGULATIONS

Regulations and procedures concerning admissability of persons to the United States will be found in the Immigration Manual (containing law, regulations, and operation instructions) which is available to all customs employees performing immigrant inspector functions.

PART 231—ARRIVAL—DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

Sec. 231.1 Arrival manifests for passengers.—(a) *Vessels.* The master or agent of every vessel arriving in the United States from a foreign place or from an outlying possession of the United States, except one arriving directly from Canada on a voyage originating in that country, must present a manifest of all alien passengers on board to the immigration officer at the first port of arrival. For vessels that are given advance permission to use the procedure, the manifest shall be in the form of a separate arrival-departure card (Form I-94) prepared for and presented by each alien passenger. In addition, a properly completed Form I-92 (Aircraft/Vessel Report) recording the total number of passengers (including U.S. citizens) that embarked at each port en route to the United States shall be presented by the master to the immigrant inspector at the first port of arrival in the United States. For vessels that are not given such advance permission the manifest shall be submitted on a Form I-418, executed in accordance with the instructions on the reverse thereof, with a completely executed set of Forms I-94 prepared for and presented by each alien passenger except an immigrant, a Canadian citizen, or a British subject residing in Canada or Bermuda.

(b) *Aircraft.* The captain or agent of every aircraft arriving in the United States from a foreign place or from an outlying possession of the United States, except one arriving directly from Canada on a flight originating in that country, must present a manifest in the form of a separate arrival-departure card (Form I-94) prepared for and presented by each alien passenger on board. In addition, a properly completed Form I-92 (Aircraft/Vessel Report) recording the total number of passengers (including U.S. citizens) that embarked at each port en route to the United States shall be presented by the captain to the immigrant inspector at the first port of arrival in the United States. An arrival-departure card is not required for an arriving, through-flight passenger at a U.S. port from which he will depart directly to a foreign place or an outlying possession of the United States on the same flight, provided the number of such through-flight passengers is noted on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration and such passengers remain during the ground time in a separate area under the direction and control of the Service.

(c) *Deferred inspection.* When inspection of an arriving passenger is deferred at the request of the carrier to another port of debarkation, the manifest relating to any such passenger shall be returned, together with a Form I-92 when the Form I-94 manifest procedure is used, for presentation by the captain, master, or agent at the port where inspection is to be conducted.

(d) *Preparation of Arrival-Departure Card, Form I-94.* When used either as an attachment to an arrival manifest on Form I-418 or as the basic arrival manifest document, the set of Forms I-94 presented for each alien passenger, except an immigrant, a Canadian citizen, or a British subject residing in Canada or Bermuda, shall be completely executed. For an immigrant, a Canadian citizen, or a British subject residing in Canada or Bermuda, only the first four lines of the Form I-94 shall be completed. The Alien Registration Number shall be substituted for "passport number" on the Form I-94 presented for a returning lawful permanent resident of the United States.

Sec. 231.2 Departure manifests for passengers.—(a) *Vessels.* The master or agent of every vessel departing from the United States for a foreign place or an outlying possession of the United States, except one departing directly to Canada on a voyage terminating in that country, must present a manifest of all alien passengers on board to the immigration officer at the port of departure. For vessels that are given advance permission to use the procedure, the manifest shall be in the form of a separate arrival-departure card (Form I-94) for each alien passenger. In addition, a properly completed Form I-92 (Aircraft/Vessel Report) setting forth each port of disembarkation and the number of passengers (including U.S. citizens) destined thereto shall be submitted by the carrier to the immigration officer at the last port of departure in the United States. For vessels that are not given such advance permission, the manifest shall be submitted on a Form I-418, executed in accordance with the instructions on the reverse thereof, with a fully executed Form I-94 for each alien passenger except an alien permanent resident of the United States, a Canadian citizen, or a British subject residing in Canada or Bermuda. For departing alien nonimmigrants the Form I-94 given the alien at the time of his last admission to the United States should be utilized. Any alien registration receipt card on Form I-151 surrendered pursuant to Part 264 of this chapter shall be attached to the manifest. The presentation of the departure manifest on vessels making regularly scheduled voyages to and from the United States may be deferred as follows: The Forms I-94 of departing nonimmigrant aliens, together with the name of the vessel and the date and place of departure, shall be presented to the immigration officer at the port of departure within 96 hours from the time of departure, exclusive of Saturdays, Sundays, and legal holidays. On those vessels using the Form I-94 manifest, the Forms I-94 of all departing passengers, other than United States citizens and nonimmigrant aliens, shall be presented to the immigration officer at the port of departure within 30 calendar days from date of departure. On vessels using the Form I-418 manifest, the Forms I-418, appropriately noted to show prior submission of Forms I-94, shall be presented to the immigration officer at the port of departure within 30 calendar days from date of departure. In the event a Form I-94 for a departing nonimmigrant alien is not submitted within the aforementioned 96 hour period, a completed Form I-94 for that person shall be attached to and shall be submitted with the departure manifest, accompanied by an explanation as to why timely presentation was not made; for good cause shown, such submission shall not be regarded as lack of compliance with section 231(d) of the Act.

(b) *Aircraft.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United States, except one departing directly to Canada on a flight terminating in that country, must present a manifest of all alien passengers on board. In addition, a properly completed Form I-92 (Aircraft/Vessel Report) setting forth each port of disembarkation and the number of passengers (including U.S. citizens) destined thereto shall be submitted by the carrier to the immigration officer at the last port of departure in the United States. Aircraft departing on regularly scheduled flights from the United States may defer presentation for a period not in excess of 48 hours. The manifest shall be in the form of a Bureau of Customs Form 7507 or the International Civil Aviation Organization's General Declaration, a Form I-92 and a separate arrival-departure card (Form I-94) for each alien passenger, except a through-flight passenger for whom an arrival-departure card was not prepared upon arrival. An alien nonimmigrant departing on an aircraft proceeding directly to Canada on a flight terminating in that country should surrender any Form I-94 in his possession to the airline agent at the port of departure or to the Canadian immigration officer at the port of arrival in that country.

(c) *Departure Forms I-94.* When used either as an attachment to a departure manifest on Form I-418 or as the basic departure manifest, the Form I-94 executed on its face to reflect the items required by section 231.1(d) for each class of arriving passengers, shall have the "departure record" information endorsed on the reverse by the carrier.

Sec. 231.3 Exemptions for private vessels and aircraft.—The provisions of this part relating to the presentation of arrival and departure manifests shall not apply to a private vessel or private aircraft not engaged directly or indirectly in the carriage of persons or cargo for hire.

PART 251—ARRIVAL MANIFESTS AND LISTS; SUPPORT DOCUMENTS

Sec. 251.1 Arrival manifests and lists.—(a) *Vessels.* The master or agent of every vessel arriving in the United States from a foreign place or from an outlying possession of the United States shall present to the immigration officer at the port of first arrival a manifest of all crewmen on board on Form I-418 in accordance with the instructions contained thereon. A manifest shall not be required for crewmen aboard a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes, or the St. Lawrence River, and connecting waterways herewith designated as a Great Lakes vessel, except crewmen of other than United States, Canadian, or British citizenship and, after submission of a manifest on the first voyage of a calendar year, a manifest shall not be required on subsequent arrivals unless there is employed on the vessel at the time of such arrival an alien crewman of other than United States, British, or Canadian citizenship who was not aboard and listed on the occasion of the submission of the last prior manifest.

(b) *Aircraft.* The captain or agent of every aircraft arriving in the United States from a foreign place or from an outlying possession of the United States, except an aircraft arriving in the United States directly from Canada on a flight originating in that country, shall present to the immigration officer at the port of first arrival a manifest on the Bureau of Customs Form 7507 or on the International

Civil Aviation Organization's General Declaration of all the alien crewmen on board, including alien crewmen who are returning to the United States after taking an aircraft of the same line from the United States to a foreign place or alien crewmen who are entering the United States as passengers solely for the purpose of taking an aircraft of the same line from the United States to a foreign port. The surname, given name, and middle initial of each such alien crewman listed shall be shown. In addition, the captain or agent of the aircraft shall indicate in writing immediately below the name of the last alien listed on such form or declaration, the number of U.S. citizen crewmen on board, if any. If there are no alien crewmen aboard, the captain or agent shall indicate in writing on the form or declaration the number of U.S. citizen crewmen, followed by a statement that there are no alien crewmen.

(c) *Additional documents.* The master, captain, or agent shall prepare as a part of the manifest, when one is required for presentation to an immigration officer, a completely executed set of Forms I-95 for each alien crewman on board, except (1) an alien immigrant crewman in possession of a valid immigrant visa, reentry permit, or alien registration receipt card on Form I-151; (2) a Canadian or British citizen crewman serving on a vessel plying solely between Canada and the United States; or (3) a crewman seeking conditional landing privileges under section 252(a)(1) of the Act who is in possession of an unmutilated alien crewman landing permit and identification card (Form I-184) or an unmutilated conditional landing permit (Form I-95) with space for additional endorsements previously issued to him as a member of the crew of the same vessel or an aircraft of the same line on his last prior arrival in the United States, following which he departed from the United States as a member of the crew of the same vessel or an aircraft of the same line.

(d) *Notations on arrival manifests.* Upon completion of the examination of each crewman listed on the Form I-418 presented by the master or agent of an arriving vessel, the examining immigration officer shall place one of the following symbols in column (5) of the Form I-418 opposite the name of the crewman: "USC" for a crewman admitted as a United States citizen; "N" for a crewman admitted as a lawful permanent resident; "D-1" for an alien crewman granted a conditional landing permit under section 252(a) (1) of the Act; "D-2" for an alien crewman granted a conditional landing permit under section 252(a)(2) of the Act; "Parolee" for an alien crewman paroled pursuant to section 212(d)(5) of the Act; and "Refused" for an alien crewman whose request for a landing permit has been refused. The examining immigration officer shall sign his name, title and the date of the inspection following the last entry in column (5) of the Form I-418 when the examination of the crew is completed. The master of the vessel shall be furnished Form I-410 as a receipt for the arrival manifest, Form I-418, and the immigration officer shall list on that form the names of all crewmen who have been refused conditional landing permits.

Sec. 251.2 Notification of illegal landings. As soon as discovered, the master or agent of any vessel from which an alien crewman has illegally landed or deserted in the United States shall inform the immigration officer in charge of the port where the illegal landing or desertion occurred, in writing, of the name, nationality, passport number and, if known, the personal description, circumstances and time of such illegal landing or desertion of such alien crewman, and furnish any other information and documents which might aid in his apprehension, including any passport surrendered pursuant to sec. 252.1(d) of this chapter. Failure to file notice of illegal landing or desertion and to furnish any surrendered passport within 24 hours of the time of such landing or desertion becomes known shall be regarded as lack of compliance with section 251(d) of the Act.

Sec. 251.3 Departure manifests and lists for vessels.—(a) *Form I-418, Crew List.* The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which such vessel is to depart directly to some foreign place or outlying possession of the United States, except when a manifest is not required pursuant to sec. 251.1(a), a single Form I-418, Crew List, completed in accordance with the instructions contained herein. Every item in the heading of the Form I-418 must be completed and the following endorsement shall be placed on the first line of the form: "Arrival Crew List, Form I-418, filed at (show United States port of entry)." Submission of a Form I-418 which lacks that endorsement or which lacks other essential information shall be regarded as lack of compliance with section 251(c) of the Act.

(b) *Added crewmen.* Under a heading "Added Crewmen," list the names of all nonresident alien crewmen who were not members of the crew and manifested on Form I-418 as such on the occasion of the vessel's last arrival in the United States and attach for each name on the list the Form I-95 or Form I-94 given to the alien crewman when he last arrived in the United States. If that form is unavailable, a new Form I-95 shall be prepared and attached to the Form I-418.

(c) *Separated crewman.* Under a heading "Separated Crewmen," list the names of all alien crewmen, other than alien permanent residents of the United States, who were listed on the arrival Form I-418, as members of the crew on the occasion of the vessel's last arrival in the United States but who for any reason are not departing with the vessel, and for each such separated crewman show his nationality, passport number, specific port and date of separation, and the reasons for failure to depart. The list required by paragraph (b) of this section and this paragraph may be incorporated in a single Form I-418, if space permits. The required lists need not be submitted for Canadian or British citizen crewmen of Great Lakes vessels.

(d) *No changes in crew.* When there are no added and separated crewmen as described in this section, the Form I-418 shall be endorsed with the notation "No changes in nonresident alien crew upon departure."

Sec. 251.4 Departure manifests and lists for aircraft.—(a) *Bureau of Customs Form 7507 or International Civil Aviation Organization's General Declaration.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United

States, except an aircraft departing from the United States directly to Canada on a flight terminating in that country, shall submit to the immigration officer at the port from which such aircraft is to depart on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration a list of all alien crewmen on board, including alien crewmen who arrived in the United States as crewmen on an aircraft of the same line and who are departing as passengers. The surname, given name, and middle initial of each such alien crewman listed shall be shown. In addition, the captain or agent of the aircraft shall indicate in writing immediately below the name of the last alien listed on such form or declaration, the number of U.S. citizen crewmen on board, if any. If there are no alien crewmen aboard, the captain or agent shall indicate in writing on the form or declaration the number of U.S. citizen crewmen, followed by a statement that there are no alien crewmen.

(b) Notification of changes in employment for aircraft. The agent of the air transportation line shall immediately notify in writing the nearest immigration office of the termination of employment in the United States of each alien employee of the line furnishing the name, birthdate, birthplace, nationality, passport number, and other available information concerning such alien.

Sec. 251.5 Exemptions for private vessels and aircraft.—The provisions of this part relating to submission of arrival and departure manifests and lists shall not apply to a private vessel or a private aircraft not engaged directly or indirectly in the carriage of persons or cargo for hire.

PART 280—IMPOSITION AND COLLECTION OF FINES

Sec. 280.1 Notice of intention to fine; administrative proceedings not exclusive.—Whenever a district director has reason to believe that any person has violated any of the provisions of the Immigration and Nationality Act and has thereby become liable to the imposition of an administrative fine under the Immigration and Nationality Act, he shall cause a Notice of Intention to Fine, Form I-79, to be served as provided in this part. Nothing in this subchapter shall affect, restrict, or prevent the institution of a civil suit, in the discretion of the Attorney General, under the authority contained in section 280 of the Immigration and Nationality Act.

Sec. 280.2 Special provisions relating to aircraft.—In any case in which the imposition of a fine is predicated upon an alleged violation of a regulation promulgated under authority of section 239 of the Immigration and Nationality Act, the procedure prescribed in this part shall be followed, and the aircraft involved shall not be granted clearance pending determination of the question of liability to the payment of any fine, or while the fine remains unpaid; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs. If the alleged violation was by the owner or person in command of the aircraft, the penalty provided for shall be a lien against the aircraft, which, except as provided in sec. 280.21, shall be seized by the district director, or by an immigration officer designated by the district director and placed in the custody of the customs officer who is in charge of the port of entry or customs station nearest the place of seizure. If the owner or owners of the airport at which such aircraft is located are the owners of the seized aircraft, the aircraft shall be removed to another suitable place for storage if practicable.

Sec. 280.3 Departure of vessel or aircraft prior to denial of clearance.—If any vessel or aircraft which is subject to the imposition of a fine shall have departed from the United States prior to the denial of clearance by the collector of customs and such vessel or aircraft is subsequently found in the United States, a Notice of Intention to Fine, Form I-79, shall be served as provided in this part, if such form has not been previously served for the same violation. Clearance of such vessel or aircraft shall be withheld by the collector of customs, and the procedure prescribed in this part shall be followed to the same extent and in the same manner as though the vessel or aircraft had not departed from the United States. Aircraft subject to the provisions of Sec. 280.2, which shall have departed from the United States prior to the time seizure could be effected, shall be subject to all of the provisions of this part, if subsequently found in the United States, to the same extent as though it had not departed from the United States.

Sec. 280.4 Data concerning cost of transportation.—Within 5 days after request therefor, transportation companies shall furnish to the district director or officer in charge the original transportation contract of all rejected aliens whose cases are within the purview of any of the provisions of the Immigration and Nationality Act relating to refund of passage monies, and shall specify the exact amounts paid for transportation from the initial point of departure (which point shall be indicated) to the foreign port of embarkation, from the latter to the port of arrival in the United States and from the port of arrival to the inland point of destination, respectively, and also the amount paid for headtax, if any.

Sec. 280.5 Mitigation or remission of fines.—If any case in which mitigation or remission of a fine is authorized by the Immigration and Nationality Act, the party served with Notice of Intention to Fine may apply in writing to the district director for such mitigation or remission.

Sec. 280.6 Bond to obtain clearance; forms.—A bond to obtain clearance of a vessel or aircraft under sections 231, 233, 237, 243, 251, 253, 254, 255, 256, 272 or 273 of the Immigration and Nationality Act shall be filed on Form I-310.

Sec. 280.7 Approval of bonds or acceptance of cash deposit to obtain clearance.—The collector of customs is authorized to approve the bond, or accept the sum of money which is being offered for deposit under any provision of the Immigration and Nationality Act or by this chapter for the purpose of obtaining clearance of a vessel or aircraft.

Sec. 280.11 Notice of intention to fine; procedure.—Notice of Intention to Fine, Form I-79, shall be prepared in triplicate, with one additional copy for each additional person on whom the service of such Notice is contemplated. The Notice shall be addressed to any or all of the available persons subject to fine. A copy of the Notice shall be served on each such person by (a) delivering it to him in person, or (b) leaving it at his office, or (c) mailing it to him at his office whenever the district director ascertains that the other two methods of service are inconvenient or impossible. If the Notice is served personally, the person upon whom it is served shall be requested to acknowledge such service by signing his name to the duplicate and triplicate copies. The officer effecting such service shall attest to the service by signing his name thereon and shall indicate thereon the date and place of service. If the person so served refuses to acknowledge service, or if service is made by leaving it at an office or mailing it, the person making such service shall indicate the method and date on the duplicate and triplicate copies of Form I-79, and shall sign his name upon such copies. The duplicate copy shall be retained by the district director and the triplicate copy shall be delivered directly to the collector of customs for the district in which the vessel or aircraft is located, and the collector shall withhold clearance until deposit is made or bond furnished as provided in the Immigration and Nationality Act. If the vessel or aircraft is located in a customs district which is outside the jurisdiction of the office of the Service having jurisdiction over the matter, the triplicate copy shall be forwarded to the office of the Service nearest such customs district for delivery to the collector of customs.

Sec. 280.12 Answer and request or order for interview.—Within 30 days following the service of the Notice of Intention to Fine (which period the district director may extend for an additional period of 30 days upon good cause being shown), any person upon whom a notice under this part has been served may file with the district director a written defense, in duplicate, under oath setting forth the reasons why a fine should not be imposed, or if imposed, why it should be mitigated or remitted if permitted by the Immigration and Nationality Act, and stating whether a personal appearance is desired. Documentary evidence shall be submitted in support of such defense and a brief may be submitted in support of any argument made. If a personal interview is requested, the evidence in opposition to the imposition of the fine and in support of the request for mitigation or remission may be presented at such interview. An interview shall be conducted if requested by the party as provided hereinabove or, if directed at any time by the Board, the Commissioner, or the district director.

Sec. 280.13 Disposition of case—(a) Allegations admitted or no answer filed. If a request for personal appearance is not filed and (a) the answer admits the allegations in the Notice, or (b) no answer is filed, the district director shall enter such order in the case as he deems appropriate and no appeal from his decision may be taken.

(b) *Answer filed; personal appearance.* Upon receipt of an answer asserting a defense to the allegations in the notice without requesting a personal appearance, or if a personal appearance is requested or directed, the case shall be assigned to an immigration officer. The immigration officer shall prepare a report summarizing the evidence and containing his findings and recommendation. The record, including the report and recommendation of the immigration officer, shall be forwarded to the district director. The district director shall note on the report of the immigration officer whether he approves or disapproves the recommendation of the immigration officer. The person shall be informed in writing of the decision of the district director and, if his decision is that a fine shall be imposed or that the requested mitigation or remission shall not be granted, of the reasons for such decision. From the decision of the district director an appeal may be taken to the Board within 15 days after the mailing of the notification of decision as provided in Part 3 of this chapter.

Sec. 280.14 Record.—The record made under sec. 280.13 shall include the request for the interview or a reference to the order directing the interview; the medical certificate, if any; a copy of any record of hearing before a Board of Special Inquiry, Hearing Examiner, Hearing Officer, or Special Inquiry Officer which is relevant to the fine proceedings; the duplicate copy of the Notice of Intention to Fine; the evidence upon which such Notice was based; the duplicate of any notices to detain, deport, deliver, or remove aliens; notice to pay expenses; evidence as to whether any deposit was made or bond furnished in accordance with the Immigration and Nationality Act; reports of investigations conducted; documentary evidence and testimony adduced at the interview; the original of any affidavit or brief filed in opposition to the imposition of fine; the application for mitigation or remission; and any other relevant matter.

Sec. 280.15 Notice of final decision to collector of customs.—At such time as the decision under this part is final, the regional administrative officer shall be furnished a copy of the decision by the district director. The regional administrative officer shall notify the collector of customs who was furnished a copy of the Notice of Intention to Fine of the final decision made in the case. Such notification need not be made if the regional administrative officer has been previously furnished with a notice of collection of the amount of the penalty by the collector of customs.

Sec. 280.21 Seizure of aircraft.—Seizure of an aircraft under the authority of section 239 of the Immigration and Nationality Act, and sec. 280.2 will not be made if such aircraft is damaged to an extent that its value is less than the amount of the fine which may be imposed. Immediately upon the seizure of an aircraft, or prior thereto, if circumstances permit, a full report of the facts in the case shall be submitted by the district director to the United States Attorney for the district in which the seizure was made. The report shall include the cost incurred in seizing and guarding the aircraft and an estimate of the further additional cost likely to be incurred.

Sec. 280.51 Application for mitigation or remission—(a) When application may be made. An application for mitigation or remission shall be filed (a) within 30 days after the service of the Notice of Intention to Fine and, if an answer is filed as provided in sec. 280.12, with such answer, for consideration in the event a fine is found to have been incurred, or (b) within 30 days after receipt of the final decision with respect to the fine.

(b) *Form and contents of application.* An application for mitigation or remission shall be filed in duplicate under oath and shall include information, supported by documentary evidence, as to the basis of the claim to mitigation or remission, and as to the action, if any, which may have been taken by the applicant, or as to the circumstances present in the case which, in the opinion of the applicant, justified the granting of his application.

(c) *Disposition of application.* The application, if filed with the answer, shall be disposed of as provided in sec. 280.13. In any other case, the application shall be considered and decided by the district director from whose decision an appeal may be taken to the board within 15 days after the mailing of the notification of decision, as provided in Part 3 of this chapter.

VII. DEPOSIT OF REFUSE IN NAVIGABLE WATERS AND OIL POLLUTION OF COASTAL WATERS

CORPS OF ENGINEERS REGULATIONS—Oil Pollution Act, 1961

Title 33, Code of Federal Regulations, sections 212.1 to 212.3:

Sec. 212.1 Prohibited zone adjacent to the United States.—(a) These waters shall be those covered by a band 50 miles wide adjacent to the coast line of the United States and will include the area now considered territorial waters of the United States.

(1) In enforcing the Oil Pollution Act, 1961, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary of the Army and officers and employees of the Bureau of Customs and the Coast Guard shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody with or without process any person who may violate any of said provisions: *Provided*, That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: *And provided further*, That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Bureau of Customs and United States Coast Guard may go on board and inspect any foreign ship to which the convention applies while the ship is within the territorial jurisdiction of the United States, and they may also go on board and inspect any United States ship to which the convention applies when in a prohibited zone or in a port of the United States as may be necessary for enforcement of the Oil Pollution Act, 1961, and the regulations of this part.

Information pertaining violations of the Oil Pollution Act, 1961, will be submitted to the Corps of Engineers District Engineer in charge of the locality, directly or through Coast Guard Representatives, where the violation occurred. If the violation is by a vessel of foreign registry, the District Engineer will forward the report to the Chief of Engineers.

(3) Nothing in the regulations of this part or in the Oil Pollution Act, 1961, will be construed to change or modify the provisions of the Oil Pollution Act of 1924.

(b) The Secretary of the Army hereby designates employees of the Corps of Engineers employed on river and harbor works, employees of any Corps of Engineers Harbor Supervisor, Commissioned, Warrant and Petty Officers of the United States Coast Guard and employees of the Bureau of Customs to make the inspections required under the Oil Pollution Act of 1961 and the regulations of this part.

Sec. 212.2 Prohibited zone adjacent to countries other than the United States.—Vessels of the United States to which the convention applies while in a prohibited zone adjacent to countries other than the United States as described in section 12 of the Oil Pollution Act of 1961, or as modified by notices, if any, of extension or reduction issued by the Secretary of the Army, shall comply with the provisions of the International Convention for Prevention of Pollution of the Seas by Oil, 1954.

Sec. 212.3 Oil Record Book.—(a) An "Official Oil Record Book" issued by the Secretary of the Army will be printed by the United States Government and made available without charge to the masters or operators of all vessels subject to the Oil Pollution Act, 1961, through U.S. Coast Guard Marine Inspection Offices located in the coastal and principal Great Lakes ports.

(b) The "Official Oil Record Book" shall contain the record of certain actions in connection with the use or handling of oil or oily mixutre. Each entry shall be made and dated on the day when such actions occur. When any action or operation extends over a period of more than one day the date of entry shall not be later than the date on which the action or operation is completed.

(c) The master of all vessels required to keep the "Official Oil Record Book" shall be responsible for the maintenance of such record and its delivery as required herein.

(d) Upon completion of a foreign voyage the oil record shall be delivered to the U.S. Coast Guard Marine Inspection Office in the port where the voyage is terminated.

(e) The "Official Oil Record Book" maintained on vessels when not engaged on a foreign voyage shall remain on board such vessels for one or more voyages until insufficient space remains for an additional entry. When completed, the books shall be retained on board the vessel, or at the principal office in the United States of the vessels owner for a period of 2 years from the date of the last entry. At the expiration of this period they may be destroyed.

(f) The record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

United States Code, title 33, chapter 9:

Sec. 407 Deposit of refuse in navigable waters generally.—It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: Provided, That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the United States officers supervising such improvement or public work: And provided further, That the Secretary of the Army, whenever in the judgement of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful.

Sec. 411 Penalty for wrongful deposit of refuse; use of or injury to harbor improvements, and obstruction of navigable waters generally.—Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 407, 408, and 409 of this title shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction.

Sec. 413 Duty of United States attorneys and other Federal officers in enforcement of provisions; arrest of offenders.—The Department of Justice shall conduct the legal proceedings necessary to enforce the provisions of sections 401, 403, 404, 406, 407, 408, 409, 411, 549, 686, and 687 of this title; and it shall be the duty of United States attorneys to vigorously prosecute all offenders against the same whenever requested to do so by the Army or by any of the officials hereinafter designated, and it shall furthermore be the duty of said United States attorneys to report to the Attorney General of the United States the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of the Army by the Attorney General; and for the better enforcement of the said provisions and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of the Army, and the United States collectors of customs and other revenue officers shall have power and authority to swear out process, and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the said sections, or who may violate any of the provisions of the same: Provided, That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: And provided further, That whenever any arrest is made under such sections, the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

Sec. 431 Short title.—Sections 431–437 of this title may be cited as the 'Oil Pollution Act, 1924.'

Sec. 432 Definitions.—When used in sections 431–437 of this title, unless the context otherwise requires—

(a) The term 'oil' means oil of any kind or in any form, including fuel oil, oil sludge, and oil refuse;

(b) The term 'person' means an individual, partnership, corporation, or association; any owner, master, officer or employee of a vessel, and any officer, agent, or employee of the United States;

(c) The term 'coastal navigable waters of the United States' means all portions of the sea within the territorial jurisdiction of the United States, and all inland waters navigable in fact in which the tide ebbs and flows;

(d) The term 'Secretary' means the Secretary of the Army.

Sec. 433 Prohibition against discharge of oil generally.—Except in case of emergency imperiling life or property or unavoidable accident, collision, or stranding, and except as otherwise permitted by regulations prescribed by the Secretary as in sections 434–437 of this title authorized, it shall be unlawful for any person to discharge, or suffer, or permit the discharge of oil by any method, means, or manner into or upon the coastal navigable waters of the United States from any vessel using oil as fuel for the generation of propulsion power, or any vessel carrying or having oil thereon in excess of that necessary for its lubricating requirements and such as may be required under the laws of the United States and the rules and regulations prescribed thereunder. The Secretary is authorized and empowered to prescribe regulations permitting the discharge of oil from vessels in such quantities, under such conditions, and at such times and places as in his opinion will not be deleterious to health or sea food, or a menace to navigation, or dangerous to persons or property engaged in commerce on such waters, and for the loading, handling, and unloading of oil.

Sec. 434 Penalties for violations; liability of vessel.—Any person who violates section 433 of this title or any regulation prescribed in pursuance thereof, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment not exceeding one year nor less than thirty days, or by both such fine and imprisonment, for each offense. And any vessel (other than a vessel owned and operated by the United States) from which oil is discharged in violation of section 433 of this title, or any regulation prescribed in pursuance thereof, shall be liable for the pecuniary penalty specified in this section, and clearance of such vessel from a port of the United States may be withheld until the penalty is paid, and said penalty shall constitute a lien on such vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be.

Sec. 435 Revocation or suspension of license of officers of offending vessels.—The Coast Guard may, subject to the provisions of section 239 of Title 46, suspend or revoke a license issued to the master or other licensed officer of any vessel found violating the provisions of section 433 of this title.

Sec. 436 Personnel for enforcement of provisions; arrest of offenders and procedure.—In the administration of sections 431-437 of this title, the Secretary may make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed under his direction in the improvement of rivers and harbors, and in the enforcement of laws for the preservation and protection of navigable waters. And for the better enforcement of the provisions of the said sections, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary, and officers of the Customs and Coast Guard of the United States, shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: Provided, That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: And provided further, That whenever any arrest is made under the provisions of the said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States.

Sec. 437 Other statutes for preservation and protection of navigable waters unaffected.—Sections 431-436 of this title shall be in addition to the laws existing prior to June 7, 1924, for the preservation and protection of navigable waters and shall not be construed as repealing, modifying, or in any manner affecting the provisions of those laws.

VIII. TOBACCO MATERIALS AND TOBACCO PRODUCTS

IMPORTATION OF TOBACCO PRODUCTS AND MATERIALS

Part 275—Importation of Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes (Effective October 1, 1961)

Sec. 275.1 Importation of cigars, cigarettes, and cigarette papers and tubes.—This part contains the regulations relating to cigars, cigarettes, and cigarette papers and tubes, imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of cigars from a customs bonded manufacturing warehouse, class 6; and the release of cigars, cigarettes, and cigarette papers and tubes from customs custody, without payment of internal revenue tax or cutsoms duty attributable to the internal revenue tax.

Sec. 275.25 Disposal of forfeited, condemned, and abandoned cigars, cigarettes, and cigarette papers and tubes.—When any Federal, State, or local officer having custody of forfeited, condemned, or abandoned cigars, cigarettes, or cigarette papers or tubes, upon which the Federal tax has not been paid, is of the opinion that the sale thereof will not bring a price equal to the tax due and payable thereon, and the expenses incident to the sale thereof, he shall not sell, nor cause to be sold, such articles for consumption in the United States. Where the articles are not sold, the officer may deliver them to a Federal or State hospital or institution (if they are fit for consumption) or cause their destruction by burning completely or by rendering them unfit for consumption. Where such articles are sold, they shall not be released by the officer having custody thereof until they are properly packaged and taxpaid, which tax shall be considered as a portion of the sales price. Except where the tax is to be paid to collectors of customs in accordance with Part 20, Customs Regulations (19 CFR Part 20), on sales of articles by customs officers, the payment of tax on such articles shall be evidenced by presentation, to the officer having custody of the articles, of a receipt from the district director showing such payment. In the case of such articles held by or for the Federal Government, the sale thereof shall be subject to the applicable provisions of the Regulations of the General Services Administration, Title 1, Personal Property Management.

Subpart D—Taxes

Tax Rates

Sec. 275.31 Cigars.—On cigars imported or brought into the United States, the following internal revenue taxes are imposed by law:

(a) Small cigars. 75 cents per thousand.

(b) Large cigars. (1) If removed to retail at not more than 2-1/2 cents each, $2.50 per thousand;

(2) If removed to retail at more than 2-1/2 cents each and not more than 4 cents each, $3 per thousand;

(3) If removed to retail at more than 4 cents each and not more than 6 cents each, $4 per thousand;

(4) If removed to retail at more than 6 cents each and not more than 8 cents each, $7 per thousand;

(5) If removed to retail at more than 8 cents each and not more than 15 cents each, $10 per thousand;

(6) If removed to retail at more than 15 cents each and not more than 20 cents each, $15 per thousand; and

(7) If removed to retail at more than 20 cents each, $20 per thousand.

Cigars not exempt from tax under this part which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale. (68A Stat. 907, 72 Stat. 1414; 26 U.S.C. 7652, 5701)

Sec. 275.32 Cigarettes.—On cigarettes imported or brought into the United States, the following internal revenue taxes are imposed by law:

(a) Small cigarettes. $4 per thousand.

(b) Large cigarettes. $8.40 per thousand; except that where such cigarettes are more than 6-1/2 inches in length, the rate of tax is $4 per thousand, counting each 2-3/4 inches, or fraction thereof, of the length of each as one cigarette.

Sec. 275.33 [Deleted]

Sec. 275.34 Cigarette papers.—On each book or set of cigarette papers containing more than 25 papers imported or brought into the United States, the law imposes an internal revenue tax of 1/2 cent for each 50 papers or fractional part thereof; except that where cigarette papers measure more than 6-1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2-3/4 inches, or fraction thereof, of the length of each as one cigarette paper.

Sec. 275.35 Cigarette tubes.—On cigarette tubes imported or brought into the United States, the law imposes an internal revenue tax of 1 cent for each 50 tubes or fractional part thereof; except that where cigarette tubes measure more than 6-1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2-3/4 inches, or fraction thereof, of the length of each as one cigarette tube.

Tax Classification of Large Cigars and of Cigarettes

Sec. 275.37 Large cigars.—Large cigars are divided into seven classes, for internal revenue tax purposes, corresponding with the rates of tax imposed by section 5701(a)(2), I.R.C., and based on the retail price intended by the importer for such cigars. The classes are designated, from the lowest to the highest rate of tax, as Class A, Class B, Class C, Class D, Class E, Class F, and Class G, respectively. In establishing the retail price, for tax purposes, regard shall be had to the ordinary retail price of a single cigar in its principal market, exclusive of any State or local taxes imposed on cigars as a commodity. Where there is more than one price for the same cigar in its principal market, the tax to be paid shall be determined, at the time of removal, according to the price at which the majority are sold therein. Subsequent retail sale at a price in excess of the maximum for the class at which taxpaid will not, in itself, cause the importer to incur any additional tax liability.

Sec. 275.38 Cigarettes.—For internal revenue tax purposes, small cigarettes are designated Class A and large cigarettes are designated Class B.

Liability for an Payment of Taxes

Sec. 275.40 Persons liable for tax.—The importer of cigars, cigarettes, and cigarette papers and tubes shall be liable for the internal revenue taxes imposed thereon by section 5701 or 7652, I.R.C.: *Provided*, That when cigars, cigarettes, or cigarette papers or tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or of a manufacturer of cigarette papers and tubes, the transferee shall become liable for the internal revenue tax on such articles upon release from customs custody and the importer shall thereupon be relieved of his liability for such tax.

Sec. 275.41 Determination of tax and method of payment.—Cigars, cigarettes, and cigarette papers and tubes, imported or brought into the United States, on which internal revenue taxes are due and payable, shall not be released from customs custody until such taxes have been determined and paid. The taxes on such articles which are determined to be due shall be paid on the basis of a return in accordance with the provisions of this part.

Exemptions from Taxes

Sec. 275.45 Tobacco products and cigarette papers and tubes imported by consular officers and employees of foreign states.—No internal revenue tax shall be imposed with respect to tobacco products and cigarette papers and tubes imported by a consular officer of a foreign state, or by an employee of a consulate of a foreign state, whether such articles accompany the officer or employee to his post in the United States, or are imported by him at any time during the exercise of his functions therein, if:

(a) Such officer or employee is a national of the state appointing him and is not engaged in any profession, business, or trade within the territory specified in this section;

(b) The tobacco products and cigarette papers and tubes are imported by the officer or employee for his personal or official use; and

(c) The foreign state grants an equivalent exemption to corresponding officers or employees of the Government of the United States stationed in such foreign state, as certified by the Secretary of State.

Sec. 275.46 Samples of cigars and cigarettes.—Samples of cigars and cigarettes, to be used in the United States by persons importing tobacco products in commercial quantities, are, subject to the limitations in this section, exempt from payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. Only one sample of cigars and cigarettes of the same brand, blend, size, shape, and weight, and having the same kind of wrapper, filter, mouthpiece, etc., shall be so admitted during any calendar quarter for the use of each such person. No such sample shall contain more than 3 cigars or 3 cigarettes.

Sec. 275.47 Samples of manufactured tobacco.—Samples of manufactured tobacco, to be used in the United States by persons importing tobacco products in commercial quantities, are, subject to the limitations in this section, exempt from payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. Only one sample of manufactured tobacco of the same kind, brand, blend, form, flavor, cut, grind, etc., shall be so admitted during any calendar quarter for the use of each such person. No such sample shall contain more than one-eighth of an ounce of manufactured tobacco.

Sec. 275.48 Samples of cigarette tubes.—Samples of cigarette tubes, to be used in the United States by persons importing cigarette papers or tubes in commercial quantities, are, subject to the limitations in this section, exempt from payment of any internal revenue tax imposed on, or by reason, of importation. This exemption applies only to samples to be used for soliciting orders for cigarette tubes manufactured in foreign countries. Only one sample of cigarette tubes of the same brand, size, shape, color, weight, and burning characteristics, and having the same kind of tip, filter, mouthpiece, etc., shall be so admitted during any calendar quarter for the use of each such person. No such sample shall contain more than 3 cigarette tubes.

Sec. 475.49 Tobacco products and cigarette papers and tubes for exhibition at trade fairs.—Tobacco products and cigarette papers and tubes may be imported into the United States, without payment of internal revenue tax, for the purpose of exhibition at a trade fair, exhibition, or exposition pursuant to the Trade Fair Act of 1959 (73 Stat. 18; 19 U.S.C. 1751), in accordance with Customs Regulations, 19 CFR Part 32. Such tobacco products and cigarette papers and tubes imported into the United States must be disposed of in accordance with 19 CFR Part 32. However, if such products are sold or otherwise disposed of for consumption within, or removed from, the area of such fairs pursuant to 19 U.S.C. 1753(a), and regulations thereunder, they shall be in packages which bear the notice and shall be taxpaid, in accordance with the applicable provisions of this part, prior to release from customs custody.

Sec. 275.50 Exemptions.—The Tariff Schedules of the United States (19 U.S.C. 1202) and Customs Regulations, 19 CFR, Chapter I, provide for certain exemptions from internal revenue taxes with respect to cigars, cigarettes, and cigarette papers and tubes imported into the United States. These exemptions include, but are not limited to, certain importations in passengers' baggage, for use of crew members, and by foreign officials.

Customs' Collection of Taxes

Sec. 275.62 Customs' collection of internal revenue taxes on cigars, cigarettes, and cigarette papers and tubes, imported or brought into the United States.—Internal revenue taxes on cigars, cigarettes, and cigarette papers and tubes, imported or brought into the United States, which are to be paid to a collector of customs, in accordance with this part, shall be collected, accounted for, and deposited as internal revenue collections by the collector of customs, in accordance with customs procedures and regulations: *Provided*, That the collector of customs shall deposit the taxes collected on cigars, cigarettes, and cigarette papers and tubes brought into the United States from Puerto Rico or the Virgin Islands in the internal revenue account designated for the deposit of taxes collected on articles of Puerto Rican manufacture, or the deposit of taxes collected on articles coming from the Virgin Islands, as the case may be.

Subpart E—Packages

Sec. 275.71 Package.—All cigars, cigarettes, and cigarette papers and tubes, except as provided in Sec. 275.75, shall, before removal subject to internal revenue tax, be put up in packages which shall be of such construction as will securely contain the articles therein and maintain the notice thereon as required by this subpart. No package of cigars, cigarettes, or cigarette papers or tubes shall have contained in, attached to, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

Sec. 275.72 [Deleted]

Sec. 275.73 Notice for cigars.—Every package of cigars, except as provided in Sec. 275.75, shall, before removal subject to internal revenue tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "cigars," the quantity of such product contained therein, and the classification of the product for tax purposes, i.e., for small cigars, either "small" or "little," and for large cigars, the appropriate following class designation corresponding with the rate of tax imposed by section 5701(a)(2), I.R.C.:

(a) "A. The ordinary retail price of the cigars herein contained is intended by the importer to be not more than 2-1/2 cents each";

(b) "B. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 2-1/2 cents each and not more than 4 cents each";

(c) "C. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 4 cents each and not more than 6 cents each";

(d) "D. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 6 cents each and not more than 8 cents each";

(e) "E. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 8 cents each and not more than 15 cents each";

(f) "F. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 15 cents each and not more than 20 cents each"; or

(g) "G. The ordinary retail price of the cigars herein contained is intended by the importer to be more than 20 cents each."

Sec. 275.74 Notice for cigarettes.—Every package of cigarettes, except as provided in Sec. 275.75, shall, before removal subject to internal revenue tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "cigarettes", the quantity of such product contained therein; and the classification for tax purposes, i.e., for small cigarettes either "small" or "Class A", and for large cigarettes, either "large" or "Class B".

Sec. 275.75 Exemptions.—The provisions of this subpart requiring that cigars, cigarettes, and cigarette papers and tubes be put up in packages and that proper notice be placed on such packages shall not apply to imported cigars, cigarettes, and cigarette papers and tubes authorized to be released from customs custody, without payment of internal revenue tax, pursuant to Sec. 275.50, and shall not apply to cigars and cigarettes imported in passengers' baggage, or by mail where the value does not exceed $250, where such products are solely for the personal consumption of the importer or for disposition as his bona fide gift.

Subpart F—Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes, Imported or Brought Into the United States

Sec. 275.81 Taxpayment.—Except as otherwise provided in this part, any internal revenue tax payable on cigars, cigarettes, and cigarette papers and tubes, imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States, shall be determined and paid to the collector of customs before removal on the basis of a return made on the customs form by which release from customs custody is to be effected. There shall be set forth on such customs form at the time of entry for consumption or for warehousing and at the time of withdrawal from warehouse for consumption, in addition to any information required for customs purposes, the quantity and kinds of cigars and cigarettes and class of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, to be removed on payment of tax, the applicable rate of tax, and the amount of tax due, substantially in the form as shown in the example below:

Quantity	Article and tax class	Rate of tax	Amount
20,000	Small cigars	$0.75 per thousand	$15.00
5,000	Large cigars—Class D	$7 per thousand	35.00
1,000	Large cigars—Class E	$10 per thousand	10.00
500	Large cigars—Class G	$20 per thousand	10.00
10,000	Small cigarettes	$4 per thousand	40.00
5,000	Large cigarettes	$8.40 per thousand	42.00
2,000 sets	Cigarette papers—50 each set	$0.005 per set	10.00
1,000 sets	Cigarette papers—100 each set	$0.01 per set	10.00
1,000	Cigarette tubes	$0.01 per 50 tubes	.20
Total			172.20

An extra copy of the customs form shall be prepared by the importer, marked "For internal revenue purposes," and filed with the collector of customs who will transmit it to the assistant regional commissioner of the region wherein the customs collection headquarters is located. (For provisions relating to the prepayment or deferred payment of internal revenue tax in Puerto Rico on cigars, cigarettes, and cigarette papers and tubes brought into the United States, see Subpart G of this part.)

Release of Tobacco Products and Cigarette Papers and Tubes from Customs Custody, without Payment of Tax

Sec. 275.85 Release from customs custody of imported articles.—Cigars and cigarettes manufactured in a foreign country, the Virgin Islands, or a possession of the United States may be released by the collector of customs from customs custody, without payment of internal revenue tax, for transfer to the factory of a manufacturer of tobacco products under the bond of such manufacturer. Cigarette papers and tubes manufactured in a foreign country, the Virgin Islands, or a possession of the United States may be released by the collector of customs from customs custody, without payment of internal revenue tax, for transfer, under the bond of the manufacturer to whom such articles are released, to the factory of (a) a manufacturer of cigarette papers and tubes; or (b) a manufacturer of tobacco products solely for use in the manufacture of cigarettes. Releases under this section shall be in accordance with Sec. 275.86: *Provided, however,* That a manufacturer of tobacco products or a manufacturer of cigarette papers and tubes who desires to obtain the release of Virgin Islands cigars, cigarettes, or cigarette papers or tubes from customs custody, without payment of internal revenue tax, under his bond, shall, in addition, file an extension of coverage of his bond on Form 2105 in the same manner and form as prescribed for Puerto Rican articles in Sec. 275.136. Articles received into the factory of a manufacturer under the provisions of this section are subject to the provisions of Part 270 and Part 285 of this chapter. (For provisions relating to release of Puerto Rican cigars, cigarettes, and cigarette papers and tubes from customs custody, without payment of internal revenue tax, see Subpart G of this part.)

Sec. 275.85a Release from customs custody of returned articles.—Domestically produced cigars and cigarettes (classifiable under item 804.00 of the Tariff Schedules of the United States, 19 U.S.C. 1202) exported from and returned unchanged to the United States may if entered, or withdrawn from warehouse, for consumption after June 30, 1964, be released from customs custody without payment of that part of the duty attributable to the internal revenue tax for delivery to the factory of a manufacturer of tobacco products under his bond. Domestically produced cigarette papers and tubes (classifiable under item 804.00 of the Tariff Schedules of the United States, 19 U.S.C. 1202) exported from and returned unchanged to the United States may if entered, or withdrawn from warehouse, for consumption after June 30, 1964, be released from customs custody without payment of that part of the duty attributable to the internal revenue tax for delivery, under the bond of the manufacturer to whom such articles are released, to the factory of (a) a manufacturer of cigarette papers and tubes; or (b) a manufacturer of tobacco products solely for use in the manufacture of cigarettes. Releases under this section shall be in accordance with the procedures set forth in Sec. 275.86. Upon such release, the cigars, cigarettes, and cigarette papers and tubes shall be subject to the tax and all other provisions of Chapter 52, I.R.C., and, as applicable, subject to the provisions of the regulations in Part 270 or Part 285 of this chapter as if they had not been exported or otherwise removed from internal revenue bond.

Sec. 275.86 Procedure for release.—Every manufacturer of tobacco products and cigarette papers and tubes who desires to obtain the release of cigars, cigarettes, and cigarette papers and tubes from customs custody, without payment of internal revenue tax, under his bond, as provided in Sec. 275.85, shall prepare a notice of release, Form 2145, in triplicate, and file the three copies of the form with the assistant regional commissioner for the region wherein the manufacturer is located. The assistant regional commissioner will not certify Form 2145 covering the release of cigars, cigarettes, and cigarette papers and tubes unless the manufacturer is authorized, under Parts 270 and 285 of this chapter, to receive, without payment of tax, the kinds of articles set forth in the form. After certification by the assistant regional commissioner, all copies shall be presented by the manufacturer to the collector of customs having custody of the cigars, cigarettes, and cigarette papers and tubes prior to release thereof. The collector of customs may release such articles upon completion of the notice of release and, after release, he will retain one copy of the form, transmit one copy to the assistant regional commissioner shown thereon, and return one copy to the manufacturer, which shall be retained by the manufacturer.

Release of Tobacco Materials from Customs Custody, without Payment of Tax

Sec. 275.90 [Deleted]

Sec. 275.91 [Deleted]

Subpart G—Puerto Rican Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes, Brought Into the United States

Prepayment of Tax in Puerto Rico on Tobacco Products and Cigarette Papers and Tubes

Sec. 275.105 Prepayment of tax.—To prepay, in Puerto Rico, the internal revenue tax imposed by section 7652(a), I.R.C., on cigars, cigarettes, and cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States, the shipper shall file, or cause to be filed, with the Officer-in-Charge, a tax return, Form 3073, in triplicate, with full remittance of tax which will become due on such cigars, cigarettes, or cigarette papers or tubes. The Officer-in-Charge will present a receipted copy of the return to the person filing the return and paying the tax, retain one copy, and forward the remaining copy to the Assistant Regional Commissioner, Alcohol and Tobacco Tax, New York, N.Y. The person who filed the return and prepaid the tax shall present the receipted copy of the return to the internal revenue officer assigned by the Supervisor in Charge, Alcohol and Tobacco Tax, Puerto Rico, to inspect the cigars, cigarettes, or cigarette papers or tubes to be shipped to the United States. Such officer will endorse the receipted copy of the return to show release of the cigars, cigarettes, or cigarette papers or tubes, or, if less than the quantity of cigars, cigarettes, or cigarette papers or tubes covered by the return is released, to show the quantity and kind of cigars and cigarettes and class of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, in fact released and will return such copy to the taxpayer.

Sec. 275.106 Inspection of shipment and certification of prepayment by internal revenue officer.—The internal revenue officer, assigned to inspect Puerto Rican cigars, cigarettes, and cigarette papers and tubes to be shipped to the United States in accordance with Sec. 275.105, will prepare for each shipping container, a statement on Form 3074 that the tax has been prepaid, and show the name and address of the shipper, date of prepayment, and the quantity and kind of cigars and cigarettes and class of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes. The shipper shall affix the completed Form 3074 to the outside of each shipping container in which the articles are packed. Such statement, Form 3074, shall be affixed to the outer container used in the shipment of freight in bulk (crate, packing box, van, trailer, etc.) and not on the individual cartons, cases, etc., included in such outer container. In addition, such officer will prepare Form 3075, in quintuplicate, identifying the cigars, cigarettes, and cigarette papers and tubes released in each shipment and certifying that the tax has been prepaid thereon, and will (a) present one copy to the taxpayer for attachment to the bill of lading to accompany the shipment (in custody of the carrier) for presentation to the collector of customs at the port of entry; (b) promptly mail two copies to the collector of customs at the port of entry; (c) mail one copy to the assistant regional commissioner of the region wherein the customs collection headquarters is located; and (d) retain the remaining copy. Noncommercial mail shipment of cigars, cigarettes, and cigarette papers and tubes to the United States are exempt from the provisions of this section, except that the internal revenue officer in Puerto Rico receiving a payment of internal revenue tax on mail shipments of such articles will prepare a certificate to be affixed to the container stating that the United States internal revenue tax has been prepaid on the articles contained therein.

Sec. 275.107 Procedure at port of entry.—The collector of customs at the port of entry will inspect the shipment to determine whether the quantity specified on the Form 3075 is contained in the shipment. He will then execute his certificate on the three copies of the Form 3075, in his possession, and indicate on each copy any exceptions found at the time of release. The statement of exceptions shall identify each shipping container which sustained a loss, the cigars, cigarettes, or cigarette papers or tubes reported shipped in such container, and the cigars, cigarettes, or cigarette papers or tubes lost from such container. Losses occurring as the result of missing packages, cases, or shipping containers shall be listed separately from losses caused by damage. Where the statement is made on the basis of cigars, cigarettes, or cigarette papers or tubes missing or damaged, the quantity and kind of cigars and cigarettes and class of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes shall be shown. If the collector of customs finds that the full amount of the tax has not been prepaid, he will require the difference due to be paid to him prior to release of the cigars, cigarettes, or cigarette papers or tubes. When the inspection of the shipment has been effected, and any additional tax found to be due has been paid to the collector of customs, the shipment may be released.

Sec. 275.108 Disposition of forms by collector of customs.—One copy of the Form 3075 will be forwarded to the Assistant Regional Commissioner, Alcohol and Tobacco Tax, New York, New York, one copy will be furnished the consignee, and one copy of this form will be retained by the collector of customs.

Deferred Payment of Tax in Puerto Rico on Tobacco Products

Sec. 275.111 Inspection of shipment and certification by internal revenue officer.—On receipt of the original and six copies of the Form 2987 completed and executed by the bonded manufacturer in accordance with Sec. 275.110, an internal revenue officer will inspect the cigars and cigarettes covered by the form, verify the tax calculation made with respect to such products, date and execute the certification on such form, and release the cigars and cigarettes for shipment to the United States. Such officer will then promptly distribute the certified Form 2987 by (a) mailing the original to the Officer-in-Charge; (b) mailing two copies to the collector of customs at the port of entry; (c) mailing one copy to the assistant regional commissioner of the region wherein the customs collection headquarters is located; (d) returning two copies to the bonded manufacturer who will attach one copy to the bill of lading to accompany the shipment (in custody of the carrier) for presentation to the collector of customs at the port of entry; and (e) submitting one copy to the Supervisor in Charge, Alcohol and Tobacco Tax, Puerto Rico. Such officer will also prepare, for each shipping container, a statement on Form 2989 that the tax on the cigars and cigarettes to be shipped to the United States has been computed and show the name and address of the bonded manufacturer, date of tax computation, and the quantity and kind of cigars and cigarettes and class of large cigars. The bonded manufacturer shall affix the completed Form 2989 to the outside of each shipping container in which the products are packed. Such statement, Form 2989, shall be affixed to the outer container used in the shipment of freight in bulk (crate, packing box, van, trailer, etc.) and not on the individual cartons, cases, etc., included in such outer container.

Sec. 275.117 Procedure at port of entry.—The collector of customs at the port of entry will inspect the shipment to determine whether the quantity specified on the Form 2987 is contained in the shipment. He will then execute his certificate on the three copies of the Form 2987, in his possession, and indicate on each copy any exceptions found at the time of release. The statement of exceptions shall identify each shipping container which sustained a loss, the cigars and cigarettes reported shipped in such container, and the cigars and cigarettes lost from such container. Losses occurring as the result of missing packages, cases, or shipping containers shall be listed separately from losses caused by damage. Where the statement is made on the basis of cigars and cigarettes missing or damaged, the quantity and kind of cigars and cigarettes and class of large cigars shall be shown. If the collector of customs finds that the full amount of tax due has not been computed, he will require the difference due to be paid to him prior to release of the cigars and cigarettes. When the inspection of the shipment has been effected, and any additional tax found to be due has been paid to the collector of customs, the shipment may be released.

Sec. 275.118 Disposition of forms by collector of customs.—One copy of the form 2987 will be forwarded to the Assistant Regional Commissioner, Alcohol and Tobacco Tax, New York, New York, one copy will be furnished the consignee, and one copy of this form will be retained by the collector of customs.

Release of Puerto Rican Tobacco Products and Cigarette Papers and Tubes from Customs Custody, without Payment of Tax

Sec. 275.137 Notice of release.—Every manufacturer of tobacco products and cigarette papers and tubes in the United States who desires under the provisions of this subpart to obtain the release of Puerto Rican cigars, cigarettes, and cigarette papers and tubes from customs custody, without payment of internal revenue tax, under his bond, shall prepare a notice of release, Form 3072, in quintuplicate, and file the five copies of the form with the assistant regional commissioner for the region wherein the manufacturer is located. The assistant regional commissioner will not certify Form 3072 covering the release of cigars, cigarettes, and cigarette papers and tubes unless the manufacturer is authorized, under Parts 270 and 285 of this chapter, to receive, without payment of tax, the kinds of articles set forth in the form. After certification by the assistant regional commissioner, the manufacturer shall forward all five copies of the form to the shipper in Puerto Rico. The shipper in Puerto Rico shall execute Part I on all copies of the form, forward four copies to the Supervisor in Charge, Alcohol and Tobacco Tax, Puerto Rico, and retain the remaining copy for his records. The internal revenue officer assigned to inspect the cigars, cigarettes, and cigarette papers and tubes to be shipped, after determining that the shipment has been correctly described in Part I, will execute Part II on all four copies of the form, and will (a) present one copy to the shipper for attachment to the bill of lading to accompany the shipment (in custody of the carrier) for presentation to the collector of customs at the port of entry; (b) promptly mail two copies to the collector of customs at the port of entry in the United States; and (c) retain the remaining copy.

Sec. 275.138 Action by collector of customs.—The collector of customs at the port of entry will note in Part III, on the three copies of the notice of release, Form 3072, in his possession, any exceptions found, showing the numbers and marks on each shipping container from which a loss was sustained, the quantity of cigars, cigarettes, or cigarette papers or tubes reported shipped in such shipping container, and the quantity of the articles lost. The collector of customs will execute the Notice of Release on each such copy of the form, release the shipment with one copy to the consignee, and mail one copy to the assistant regional commissioner shown on the form, and retain the remaining copy for his records.

Release of Puerto Rican Tobacco Materials from Customs Custody, without Payment of Tax

Sec. 275.145 [Deleted]

Subpart H—Taxpayment of Cigars Produced in Customs Bonded Manufacturing Warehouses, Class 6

Sec. 275.151 Taxpayment.—A proprietor of a customs bonded manufacturing warehouse, class 6, who removes cigars for sale or consumption in the United States shall pay the tax on such cigars on the basis of a return to the collector of customs in accordance with customs procedures and regulations. The tax shall be accounted for and deposited as internal revenue collections by the collector of customs.

Sec. 275.152 Packaging requirements.—Cigars removed from a customs bonded manufacturing warehouse, class 6, for sale or consumption in the United States shall be put in packages and bear the notice for cigars, in accordance with Secs. 275.71 and 275.73.

Tobacco Products and Cigarette Papers and Tubes withdrawn from the Market

Sec. 275.172 Return to nontaxpaid status, action by taxpayer.—Where cigars, cigarettes, and cigarette papers and tubes which have been imported or brought into the United States are withdrawn from the market and the taxpayer desires to file a claim for refund of the tax on such articles and return such articles to a nontaxpaid status, he shall, in addition to the requirements of Sec. 275.163, assemble the articles in or adjacent to the factory in which such articles are to be retained or received in a nontaxpaid status. The taxpayer shall group the articles according to the rate of tax applicable thereto, and shall prepare a schedule of the articles, on Form 3069, in triplicate. All copies of the schedule shall be forwarded to the assistant regional commissioner for the region in which the cigars, cigarettes, and cigarette papers and tubes are assembled.

Sec. 275.173 Return to nontaxpaid status, action by assistant regional commissioner.—Upon receipt of a schedule of cigars, cigarettes, and cigarette papers and tubes which have been imported or brought into the United States and which are withdrawn from the market by a taxpayer who desires to return such articles to a nontaxpaid status, the assistant regional commissioner may assign an internal revenue officer to verify the schedule and supervise disposition of the articles (and destruction of the stamps, if any) or the assistant regional commissioner may authorize the receiving manufacturer to verify the schedule and disposition of the articles (and destruction of the stamps, if any) covered therein, without supervision, by so stating on the original and one copy of the schedule returned to the manufacturer. Where the receipt in a factory of cigars, cigarettes, and cigarette papers and tubes has been verified, such articles shall be treated by the receiving manufacturer as nontaxpaid and shall be covered by the manufacturer's bond.

Sec. 275.174 Disposition of cigars, cigarettes, and cigarette papers and tubes, and schedule.—When an internal revenue officer is assigned to verify the schedule and supervise destruction or other disposition of cigars, cigarette and cigarette papers and tubes which have been imported or brought into the United States, such officer shall, upon completion of his assignment, execute a certificate on all copies of the schedule to show the disposition and the date of disposition of such articles. The internal revenue officer shall return the original and one copy of the certified schedule to the taxpayer. When a taxpayer destroys such articles (and stamps, if any) or reduces cigars and cigarettes to tobacco, or a receiving manufacturer verifies the schedule and disposition of such articles (and stamps, if any), he shall execute a certificate on the original and the copy of the schedule returned to him, to show the disposition and the date of disposition of the articles. The taxpayer shall attach the original of the certified schedule to his claim for refund.

Exportation of Tobacco Products and Materials

Part 290—Exportation of Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes, without Payment of Tax, or with Drawback of Tax (Effective July 1, 1960)

Sec. 290.61 Removals, withdrawals, and shipments authorized.—Cigars, cigarettes, and cigarette papers and tubes may be removed from a factory or an export warehouse, and cigars may be withdrawn from a customs warehouse, without payment of tax, for direct exportation or for delivery for subsequent exportation, in accordance with the provisions of this part.

Sec. 290.61a Deliveries to foreign-trade zones—export status.—Cigars, cigarettes, and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to a foreign-trade zone for exportation or storage pending exportation in accordance with the provisions of this part. Such articles delivered to a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds under which removed and for the purposes of the internal revenue laws generally and the regulations thereunder. However, export status is not acquired until an application on zone Form D for admission of the articles into the zone with zone restricted status has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certificate of receipt of the articles in the zone has been made on Forms 2149 or 2150 as prescribed in this part.

Sec. 290.62 Restrictions on deliveries of cigars, cigarettes, and cigarette papers and tubes to vessels and aircraft, as supplies.—Cigars, cigarettes, and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to vessels and aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States, subject to the applicable provisions of this part. Deliveries may be made to vessels actually engaged in foreign, intercoastal, or noncontiguous territory trade (i.e., vessels operating on a regular schedule in trade or actually transporting passengers and/or cargo (a) between a port in the United States and a foreign port; (b) between the Atlantic and Pacific ports of the United States; or (c) between a port on the mainland of the United States and a port in Alaska, Hawaii, Puerto Rico, the Virgin Islands, or a possession of the United States; between a port in Alaska and a port in Hawaii; or between a port in Alaska or Hawaii and a port in Puerto Rico, the Virgin Islands, or a possession of the United States); to vessels clearing through customs for a port beyond the jurisdiction of the internal revenue laws of the United States; to vessels of war or other governmental activity; or to vessels of the United States documented to engage in the fishing business (including the whaling business), and foreign fishing (including whaling) vessels of 5 net tons or over. Such deliveries to vessels shall be subject to lading under customs supervision as provided in Secs. 290.207 and 290.263. As a condition to the lading of the cigars, cigarettes, and cigarette papers and tubes, the customs authorities at the port of lading may, if they deem it necessary in order to protect the revenue, require assurances, satisfactory to them, from the master of the receiving vessel that the quantities to be laden are reasonable, considering the number of persons to be carried, the vessel's itinerary, the duration of its intended voyage, etc., and that such articles are to be used exclusively as supplies on the voyage. For this purpose, the customs authorities may require the master of the receiving vessel to submit for their approval, prior to lading, an application on Customs Form 5127 for permission to lade the articles. Where the customs authorities allow only a portion of a shipment to be laden, the remainder of the shipment shall be returned to the bonded premises of the manufacturer, export warehouse proprietor, or customs warehouse proprietor making the shipment, or otherwise disposed of as approved by the assistant regional commissioner for the region from which the articles were shipped. Deliveries may be made to aircraft clearing through customs en route to a place or places beyond the jurisdiction of the internal revenue laws of the United States, and to aircraft operating on a regular schedule between U.S. customs areas (as defined in the Air Commerce Regulations (19 CFR Part 6) of the Bureau of Customs). Deliveries may not be made to a vessel or aircraft stationed in the United States for an indefinite period and where its schedule does not include operations outside such jurisdiction.

Sec. 290.63 Restrictions on disposal of cigars, cigarettes, and cigarette papers and tubes on vessels and aircraft.—Cigars, cigarettes, and cigarette papers and tubes delivered to a vessel or aircraft, without payment of tax, pursuant to Sec. 290.62, shall not be sold, offered for sale, or otherwise disposed of until the vessel or aircraft is outside the jurisdiction of the internal revenue laws of the United States, i.e., outside the 3-mile limit or international boundary, as the case may be, of the United States. Where the vessel or aircraft returns within the jurisdiction of the internal revenue laws with such articles on board, the articles shall be subject to treatment under the tariff laws of the United States.

Subpart I—Shipments of Tobacco Materials by Dealers in Tobacco Materials

Sec. 290.171 [Deleted]

Subpart J—Removal of Shipments of Tobacco Materials by Manufacturers and Removal of Tobacco Products and Cigarette Papers and Tubes by Manufacturers and Export Warehouse Proprietors

Sec. 290.181 Packages.—All cigars, cigarettes, and cigarette papers and tubes shall, before removal, be put up by the manufacturer in packages which shall bear the label or notice, class designation, and mark, as required by this subpart.

Sec. 290.182 Lottery features.—No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars, cigarettes, or cigarette papers or tubes.

Sec. 290.183 Indecent or immoral material.—No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars, cigarettes, or cigarette papers or tubes.

Sec. 290.184 Mark.—Every package of cigars and cigarettes shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in Sec. 270.65 of this chapter may be used in the mark as the name of the manufacturer.) As an alternative, where cigars and cigarettes are both packaged and removed by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the Director. Before using the alternative, the manufacturer shall notify the Director in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the Director shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

Sec. 290.185 Label or notice.—Every package of cigars or cigarettes shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words "Tax-exempt. For use outside U.S." or the words "U.S. Tax-exempt. For use outside U.S." except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed.

Sec. 290.186 Class designation for large cigars.—Every package of large cigars shall, before removal from the factory under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, a class designation corresponding with the rate of tax under section 5701(a)(2), I.R.C., applicable to similar cigars removed for taxable purposes. The appropriate class designation shall be stated in the following manner:

Class A. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be not more than 2-1/2 cents each;

Class B. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 2-1/2 cents each and not more than 4 cents each;

Class C. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 4 cents each and not more than 6 cents each;

Class D. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 6 cents each and not more than 8 cents each;

Class E. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 8 cents each and not more than 15 cents each;

Class F. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 15 cents each and not more than 20 cents each; or

Class G. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 20 cents each.

Sec. 290.187 Shipping containers.—Each shipping case, crate, or other container in which cigars, cigarettes, or cigarette papers or tubes are to be shipped or removed, under this part, shall bear a distinguishing number, such number to be assigned by the manufacturer or export warehouse proprietor. Removals of cigars, cigarettes, and cigarette papers and tubes from an export warehouse shall be made, insofar as practicable, in the same containers in which they were received from the factory.

Consignment of Shipment

Sec. 290.188 General.—Cigars, cigarettes, and cigarette papers and tubes transferred or removed from a factory or an export warehouse, under this part, without payment of tax, shall be consigned as required by this subpart.

Sec. 290.190 Return of shipment to a manufacturer or customs warehouse proprietor.—Where cigars, cigarettes, and cigarette papers and tubes are returned by an export warehouse proprietor to a manufacturer or where cigars are so returned to a customs warehouse proprietor, such articles shall be consigned to the manufacturer or customs warehouse proprietor to whom the shipment is to be returned.

Sec. 290.192 To vessels and aircraft for shipment to noncontiguous foreign countries and possessions of the United States.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse, for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the manufacturer or export warehouse proprietor shall consign the shipment directly to the vessel or aircraft, or to his agent at the port for delivery to the vessel or aircraft.

Sec. 290.194 To collector of customs for shipment to contiguous foreign countries.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse, for export to a person in a contiguous foreign country, the manufacturer or export warehouse proprietor shall consign the shipment to the collector of customs at the border or other port of exit.

Sec. 290.196 To collector of customs for consumption as supplies on commercial vessels and aircraft.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor shall consign the shipment to the collector of customs at the port at which the shipment is to be laden.

Sec. 290.196a To a foreign-trade zone.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor shall consign the shipment to the Zone Operator in care of the customs officer in charge of the zone.

Notice of Removal of Shipment

Sec. 290.198 Preparation.—For each shipment of cigars, cigarettes, and cigarette papers and tubes transferred or removed from his factory, under bond and this part, the manufacturer shall prepare a notice of removal, Form 2149, and for each shipment of cigars, cigarettes, and cigarette papers and tubes transferred or removed from his export warehouse, under bond and this part, the export warehouse proprietor shall prepare a notice of removal, Form 2150. Each such notice shall be given a serial number by the manufacturer or export warehouse proprietor in a series beginning with number 1, with respect to the first shipment removed from the factory or export warehouse under this part and commencing again with number 1 on January 1 of each year thereafter.

Sec. 290.201 Return to manufacturer or customs warehouse proprietor.—Where cigars, cigarettes, and cigarette papers and tubes are removed from an export warehouse for return to the factory, or cigars are removed from such a warehouse for return to a customs warehouse, the export warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2150, to the manufacturer or customs warehouse proprietor to whom the shipment is consigned. Immediately upon receipt of the shipment at his factory or warehouse, the manufacturer or customs warehouse proprietor shall properly execute the certificate of receipt on both copies of the notice of removal, noting thereon any discrepancy, and return one copy to the export warehouse proprietor making the shipment for filing with his assistant regional commissioner. The other copy of the notice of removal shall be retained by the manufacturer or customs warehouse proprietor, as a part of his records, for two years following the close of the calendar year in which the shipment was received and shall be made available for inspection by any internal revenue officer upon his request.

Sec. 290.203 To noncontiguous foreign countries and possessions of the United States.—Where cigars, cigarette papers and tubes are removed from a factory or an export warehouse, for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the manufacturer or export warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149 or 2150, with the office of the collector of customs at the port where the shipment is to be laden. Such copies of the notice of removal should be filed with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration, when the copies of the notice of removal are filed with the collector of customs they shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration and any other documents filed with his office in connection with the shipment. After the vessel or aircraft on which the shipment has been laden clears or departs from his port, the collector of customs shall execute the certificate of exportation on each copy of the notice of removal, retain one copy for his records, and deliver or transmit the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

Sec. 290.205 To contiguous foreign countries.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse, and consigned to a person in a contiguous foreign country, the manufacturer or export warehouse proprietor making the shipment shall furnish to the collector of customs at the border or other port of exit of the shipment from the United States, through which the shipment will be routed, two copies of the notice of removal, Form 2149 or 2150, together with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration or, in the case of a shipment for the armed forces of the United States in the contiguous foreign country, where no shipper's export declaration is required, the copies of the notice of removal when filed with the collector of customs shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration, if any, and any other documents filed with his office in connection with the shipment. After the shipment has been cleared by customs from the United States, the customs authorities at the port of exit will complete the certificate of exportation on each copy of the Form 2149 or 2150, retain one copy thereof, and transmit the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

Sec. 290.207 To commercial vessels and aircraft for consumption as supplies.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a vessel or aircraft entitled to receive such articles for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the manufacturer or export warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149 or 2150, with the collector of customs at the port where the shipment is to be laden in sufficient time to permit delivery of the two copies of the notice of removal to the inspector of customs who will inspect the shipment and supervise its lading. After inspection and lading of the shipment the inspector of customs shall note on the copies of the notice of removal any discrepancy between the shipment inspected and laden under his supervision and that described on the notice of removal or any limitation on the quantity to be laden; complete and sign the certificate of inspection and lading; and return both copies of the notice of removal to the collector of customs. The collector of customs shall execute the certificate of clearance on the copies of the notice of removal, retain one copy for his records, and forward the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner. Where the vessel or aircraft does not clear from the port at which the shipment is laden, the customs inspector supervising the lading of the shipment shall require the person on board the vessel or aircraft authorized to receive the shipment to execute the certificate of receipt on both copies of the notice of removal to indicate the trade or activity in which the vessel or aircraft is engated.

Sec. 290.207a To a foreign-trade zone.—Where cigars, cigarettes, and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2149 or 2150, to the customs officer in charge of the zone. Upon receipt of the shipment, the customs officer shall execute the certificate of receipt on each copy of the form, noting thereon any discrepancy, retain one copy for his records, and forward the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

Sec. 290.211 Shipments to foreign-trade zones.—A manufacturer or export warehouse proprietor may remove tobacco products and cigarette papers and tubes, under his bond, without payment of tax, for shipment to a foreign-trade zone, in accordance with the applicable provisions of Part 253 of this subchapter.

Sec. 290.212 Delay in lading at port of exportation.—If, on arrival of cigars, cigarettes, and cigarette papers and tubes at the port of exportation, the vessel or aircraft for which they are intended is not prepared to receive the articles, they may be properly stored at the port for not more than 30 days. In the event of any further delay, the facts shall be reported by the manufacturer or export warehouse proprietor to his assistant regional commissioner and unless he approves an extension of time in which to effect lading and clearance of the shipment it must be returned to the factory or export warehouse.

Subpart K—Drawback of Tax

Sec. 290.221 Application of drawback of tax.—Allowance of drawback of tax shall apply only to cigars, cigarettes, and cigarette papers and tubes, on which tax has been paid, when such articles are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States. Such drawback shall be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions of this subpart.

Sec. 290.225 Delivery of cigars, cigarettes, and cigarette papers and tubes for export other than by parcel post.—The claimant, upon release of the cigars, cigarettes, and cigarette papers and tubes by the internal revenue officer for exportation with benefit of drawback of tax, under this subpart, shall be responsible for delivery of such articles to the port of exportation for customs inspection, supervision of lading, and clearance of the articles. The claimant, or his agent at said port, shall file with the collector of customs at the port of exportation in sufficient time, prior to lading, to permit his inspection and supervision of lading of the cigars, cigarettes, and cigarette papers and tubes, the two copies of the Form 2147 returned to the claimant by the internal revenue officer, in accordance with Sec. 290.224.

Sec. 290.227 Customs procedure.—The inspector of customs shall satisfy himself that the cigars, cigarettes, and cigarette papers and tubes described on the Form 2147 and those inspected by him are the same, and shall note on the form any discrepancy. After having inspected the articles and supervised the lading thereof on the export carrier, the inspector shall complete and sign the certificate of inspection and lading on each copy of the Form 2147, and then deliver or transmit such copies of the form to the office of his collector of customs for further processing. After clearance from the port of the export carrier on which the articles are laden, the collector of customs shall execute the certificate of exportation on both copies of Form 2147. The collector shall retain one copy of the form for his record and transmit the other copy to the assistant regional commissioner of the region from which the articles were shipped.

Subpart L—Withdrawal of Cigars from Customs Warehouses

Sec. 290.241 Shipment restricted.—Cigars produced in a customs warehouse in accordance with customs laws and regulations may be withdrawn under this subpart, without payment of tax, for export or for delivery for subsequent exportation. Duties paid on the tobacco used in the manufacture of such cigars may not be recovered on the exportation of the cigars under this subpart.

Sec. 290.248 Packages.—Cigars shall, before withdrawal under this part, be put up by the customs warehouse proprietor in packages which shall bear the label or notice, class designation, and mark, as required by this subpart.

Sec. 290.249 Lottery features.—No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars withdrawn under this subpart.

Sec. 290.250 Indecent or immoral material.—No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of cigars withdrawn under this subpart.

Sec. 290.251 Mark.—Every package of cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the name and location of the manufacturer. There shall also be adequately stated on each such package the number of cigars contained in the package.

Sec. 290.252 Label or notice.—Every package of cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, the words "Tax-exempt. For use outside U.S." or the words "U.S. Tax-exempt. For use outside U.S.", except where a stamp, sticker, or notice, required by a foreign country or a possession of the United States, which identifies such country or possession, is so imprinted or affixed.

Sec. 290.253 Class designation for large cigars.—Every package of large cigars shall, before withdrawal from the customs warehouse under this subpart, have adequately imprinted thereon, or on a label securely affixed thereto, a class designation corresponding with the rate of tax under section 5701(a)(2), I.R.C., applicable to similar cigars withdrawn for taxable purposes. The appropriate class designation shall be stated in the following manner:

Class A. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be not more than 2-1/2 cents each;

Class B. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 2-1/2 cents each and not more than 4 cents each;

Class C. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 4 cents each and not more than 6 cents each;

Class D. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 6 cents each and not more than 8 cents each;

Class E. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 8 cents each and not more than 15 cents each;

Class F. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 15 cents each and not more than 20 cents each; or

Class G. The ordinary retail price of the cigars herein contained is intended by the manufacturer to be more than 20 cents each.

Sec. 290.254 Shipping containers.—Each shipping case, crate, or other container, in which cigars are to be withdrawn, under this subpart, shall bear a distinguishing number, such number to be assigned by the customs warehouse proprietor.

Consignment of Shipment

Sec. 290.255 Consignment of cigars.—Cigars withdrawn from a customs warehouse, without payment of tax, under internal revenue bond and this part, shall be consigned in the same manner as provided by Subpart J of this part with respect to the removal of cigars, cigarettes, and cigarette papers and tubes from a factory or an export warehouse.

Sec. 290.259 To noncontiguous foreign countries and possessions of the United States.—Where cigars are withdrawn from a customs warehouse for direct delivery to a vessel or aircraft for transportation to a noncontiguous foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, the customs warehouse proprietor making the withdrawal shall file two copies of the notice of removal, Form 2149, with the office of the collector of customs at the port where the shipment is to be laden. Such copies of the notice of removal should be filed with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration, when the copies of the notice of removal are filed with the collector of customs they shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration and any other documents filed with his office in connection with the shipment. After the vessel or aircraft on which the shipment has been laden clears or departs from his port, the collector of customs shall execute the certificate of exportation on each copy of the notice of removal, retain one copy for his records, and deliver or transmit the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

Sec. 290.261 To contiguous foreign countries.—Where cigars are withdrawn from a customs warehouse and consigned to a person in a contiguous foreign country, the customs warehouse proprietor making the shipment shall furnish to the collector of customs at the border or other port of exit of the shipment from the United States, through which the shipment will be routed, two copies of the notice of removal, Form 2149, together with the related shipper's export declaration, Commerce Form 7525-V. In the event the copies of the notice of removal are not filed with the shipper's export declaration or, in the case of a shipment for the armed forces of the United States in the contiguous foreign country, where no shipper's export declaration is required, the copies of the notice of removal when filed with the collector of customs shall show all particulars necessary to enable the collector to identify the shipment with the related shipper's export declaration, if any, and any other documents filed with his office in connection with the shipment. After the shipment has been cleared by customs from the United States, the customs authorities at the port of exit will complete the certificate of exportation on each copy of the Form 2149, retain one copy thereof, and transmit the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

Sec. 290.263 To commercial vessels and aircraft for consumption as supplies.—Where cigars are withdrawn from a customs warehouse for delivery to a vessel or aircraft entitled to receive such articles for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States, the customs warehouse proprietor making the shipment shall file two copies of the notice of removal, Form 2149, with the collector of customs at the port where the shipment is to be laden in sufficient time to permit delivery of the two copies of the notice of removal to the inspector of customs who will inspect the shipment and supervise its lading. After inspection and lading of the shipment the inspector of customs shall note on the copies of the notice of removal any discrepancy between the shipment inspected and laden under his supervision and that described on the notice of removal or any limitation on the quantity to be laden; complete and sign the certificate of inspection and lading; and return both copies of the notice of removal to the collector of customs. The collector of customs shall execute the certificate of clearance on the copies of the notice of removal, retain one copy for his records, and forward the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner. Where the vessel or aircraft does not clear from the port at which the shipment is laden, the customs inspector supervising the lading of the shipment shall require the person on board the vessel or aircraft authorized to receive the shipment to execute the certificate of receipt on both copies of the notice of removal to indicate the trade or activity in which the vessel or aircraft is engaged.

Return of Shipment

Sec. 290.266 Return of cigars from internal revenue export warehouses.—Where cigars are returned to a customs warehouse from an internal revenue export warehouse, the officer in charge of the customs warehouse shall execute the certificate of receipt on each of the copies of the related Form 2150 received from the export warehouse proprietor, after checking the containers to determine whether all the cigars described on the notice have been received. Thereafter, both copies of the Form 2150 shall be turned over to the proprietor of the customs warehouse who shall return one copy to the export warehouse proprietor for disposition as provided in Sec. 290.201. The customs warehouse proprietor shall retain the other copy of the notice of removal, as a part of his records, for two years following the close of the calendar year in which the shipment was received. Such copy shall be made available for inspection by any internal revenue officer upon his request.

Sec. 290.267 Return of cigars from other sources.—A customs warehouse proprietor may return to his warehouse cigars previously withdrawn therefrom, under this subpart, provided he promptly files with the appropriate assistant regional commissioner a copy of the Form 2149 under which the cigars were originally withdrawn, with the certificate of receipt properly modified and executed by the customs officer in charge of the warehouse to show return of the shipment. If less than the entire shipment is returned to the warehouse, the form shall state what disposition was made of the remainder of the original shipment and any other facts pertinent to such shipment. The customs warehouse proprietor shall retain a copy of such form as a part of his records for two years after the close of the calendar year in which the shipment was returned. Such copy shall be made available for inspection by any internal revenue officer upon request.

IX. ARMS, AMMUNITION, AND IMPLEMENTS OF WAR, INCLUDING TECHNICAL DATA RELATING THERETO

See regulations of the Secretary of State governing the importation and exportation of arms, ammunition, and implements of war, including technical data relating thereto (International Traffic in Arms Regulations); Code of Federal Regulations, title 22, Parts 121-128.

X. IMPORTATION AND EXPORTATION OF ALCOHOLIC BEVERAGES AND CONTAINERS OF DISTILLED SPIRITS

EXCERPTS FROM THE REGULATIONS IN 26 CFR PART 175, "TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS."

Subpart B—Definitions

Sec. 175.11 Container.—"Container" shall mean a vessel of a capacity of not more than 5 wine gallons designed or intended for use for the sale of distilled spirits for other than industrial use.

Sec. 175.13 Distilled spirits or spirits.—That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka, and products of rectification not classified as wine.

Sec. 175.14 Importer.—"Importer" shall mean any person authorized to import distilled spirits into the United States.

Sec. 175.16 Kind.—"Kind" shall have the respective meanings given to such term by the "Standards of identity for distilled spirits," set forth in 27 CFR Part 5, and shall be stated in the manner provided in said part.

Sec. 175.17 Liquor bottle.—"Liquor bottle" shall mean a container (as defined by sec. 175.11) made of glass, or earthenware, or other suitable material approved by the Director, Alcohol and Tobacco Tax Division.

Subpart G—Imports and Exports

Importation of Empty Liquor Bottles

Sec. 175.85 General.—Distilled spirits packaged for sale in imported containers (as defined by sec. 175.11) shall be packaged only in liquor bottles which conform to the requirements of this part, and which conform to the standards of fill provided in Subpart H of 27 CFR Part 5 (with due regard for the exceptions provided in sec. 5.74 of that subpart).

Sec. 175.86 Permit required.—Empty liquor bottles may be imported into the United States only pursuant to a permit issued in accordance with the provisions of secs. 175.87, 175.89, and 175.90: *Provided,* That, where a permit has been issued covering the importation of liquor bottles through one port of entry, an additional permit for importation of such liquor bottles through another port will not be required if the importer furnishes photographic copies of the original permit to the collector of customs of each such other port and to the assistant regional commissioner (if the permit was not originally issued by him) of the region in which such other port is located.

Sec. 175.87 Indicia for empty liquor bottles.—Upon application (Form 98) by any importer or bottler, the assistant regional commissioner of the region in which the applicant is situated may, by the issuance of an appropriate permit, authorize the importation, for the packaging of either domestic or imported distilled spirits, of empty liquor bottles. The assistant regional commissioner issuing the permit will furnish a copy to the assistant regional commissioner of the region in which the port of entry is situated. There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, Alcohol and Tobacco Tax Division, either in the bottom or in the body of each such bottle imported under this provision, the name, and the name of the city or country of address, of the manufacturer, and the permit symbol and number of the bottler: *Provided,* That liquor bottles which are authorized by the Director, Alcohol and Tobacco Tax Division, under secs. 175.89 and 175.90 may be imported, as excepted from the markings required by this section.

Sec. 175.89 Empty distinctive liquor bottles (costly).—Upon application (Form 98) by any importers or bottler, the assistant regional commissioner of the region in which the applicant is situated may, by the issuance of an appropriate permit, authorize the importation by such applicant of empty liquor bottles (for the packaging of any distilled spirits), not marked as required by sec. 175.87, which, because of their unique design and cost to the applicant are found by the Director, Alcohol and Tobacco Tax Division, not to afford a jeopardy to the revenue.

Sec. 175.90 Empty distinctive liquor bottles for liqueurs and cordials.—Upon application (Form 98) by any importer or bottler, the assistant regional commissioner of the region in which the applicant is situated may, by the issuance of an appropriate permit, authorize the importation by such applicant of empty liquor bottles which are found by the Director, Alcohol and Tobacco Tax Division, to be of distinctive shape or design for the packaging of liqueurs, cordials, bitters, cocktails, gin fizzes, and such other specialties as may be specified from time to time by the Director, Alcohol and Tobacco Tax Division, not marked as required by sec. 175.87.

Importation of Filled Liquor Bottles

Sec. 175.92 General.—Distilled spirits imported into the United States for sale in containers (as defined by sec. 175.11) shall be imported only in liquor bottles which conform to the requirements of this part and to the provisions relating to the size and filling of bottles of 27 CFR Part 5.

Sec. 175.93 Permit required.—Liquor bottles containing distilled spirits, other than bottles conforming to the provisions of sec. 175.94, may be imported into the United States only pursuant to a permit issued in accordance with the provisions of secs. 175.96 to 175.98 and sec. 175.100: *Provided*, That, where a permit has been issued covering the importation of filled liquor bottles through one port of entry, an additional permit for importation of such liquor bottles through another port will not be required if the importer furnishes photographic copies of the original permit to the collector of customs at each such other port and to the assistant regional commissioner (if the permit was not originally issued by him) of the region in which such other port is located.

Sec. 175.94 Indicia.—There shall be legibly blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, Alcohol and Tobacco Tax Division, either in the bottom or in the body of all liquor bottles containing distilled spirits imported from foreign countries the name, and the name of the city or country of address, of the manufacturer of the spirits, or of the exporter abroad, or the name, and the name of the city of address, of the importer in the United States, except as provided in secs. 175.96 to 175.98 and sec. 175.100.

Sec. 175.96 Distinctive liquor bottles (costly).—Upon application (Form 98) the assistant regional commissioner of the region in which the port of entry is situated may issue a permit authorizing the importation of any distilled spirits in liquor bottles not marked as required by sec. 175.94 which, because of their unique or distinctive shape or design and cost to the importer, are found by the Director, Alcohol and Tobacco Tax Division, not to afford a jeopardy to the revenue.

Sec. 175.97 Distinctive liquor bottles for liqueurs and cordials.—Upon application (Form 98) the assistant regional commissioner of the region in which the port of entry is situated may issue a permit authorizing the importation of liqueurs, cordials, bitters, cocktails, gin fizzes, and such other specialties as may be specified from time to time by the Director, Alcohol and Tobacco Tax Division, in bottles which are found by the Director, Alcohol and Tobacco Tax Division, to be of distinctive shape or design, not marked as required by sec. 175.94.

Sec. 175.98 Vintage spirits.—Upon application (Form 98), the assistant regional commissioner of the region in which the port of entry is situated may issue a permit authorizing the importation, in bottles not marked as provided by sec. 175.94 of vintage spirits, if accompanied by authenticated certificates of origin establishing such spirits to be as defined in sec. 175.22.

Sec. 175.99 Approval of distinctive liquor bottles.—Approval of distinctive liquor bottles shall be procured in accordance with the procedure prescribed by sec. 175.59.

Sec. 175.100 Liquor bottles denied entry.—Liquor bottles, whether filled or empty, imported in violation of the provisions of this subpart shall be denied entry into the United States: *Provided*, That upon application (Form 98) the assistant regional commissioner of the region in which the port of entry is situated may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in liquor bottles which, through unintentional error, are not marked completely in accordance with the provisions of this part, if the Director, Alcohol and Tobacco Tax Division, finds that such release will not afford a jeopardy to the revenue.

Exports

Sec. 175.101 Exports.—Containers in which distilled spirits are to be exported shall not be subject to the indicia requirements of this part and the procurement and use of containers other than liquor bottles for this purpose may be authorized under permit upon application (Form 98) to the assistant regional commissioner of the region in which the bottler is located. The manufacture and exportation of empty liquor bottles for bottling distilled spirits abroad for importation into the United States may be authorized under permit upon application (Form 98) to the assistant regional commissioner of the region in which the bottles are to be manufactured; similarly the exportation of used liquor bottles for reuse by the original bottler abroad for packaging distilled spirits for importation into the United States may be authorized under permit issued by the assistant regional commissioner of the region in which such used bottles are stored, pursuant to an application (Form 98) filed by the importer. The exportation of empty liquor bottles for use abroad may be authorized under permit upon application (Form 98) to the assistant regional commissioner of the region from which the bottles will be exported.

Sec. 175.102 Language of indicia.—Wherever in this part the name of any city or country is required to be legibly marked in any bottle, the name may be either in the language of such country or in English.

Section 5205, Internal Revenue Code, 1954 (72 Stat. 1358; 26 U.S.C. 5205).

Section 5205. Stamps.

(a)(2) CONTAINERS OF OTHER DISTILLED SPIRITS.—No person shall transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof is stamped by a stamp evidencing the determination of the tax or indicating compliance with the provisions of this chapter. The provisions of this paragraph shall not apply to—

(A) distilled spirits, lawfully withdrawn from bond, placed in containers for immediate consumption on the premises or for preparation for such consumption;

(B) distilled spirits in bond or in customs custody;

(C) distilled spirits, lawfully withdrawn from bond, in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto;

(D) distilled spirits, lawfully withdrawn from bond, in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(E) distilled spirits on which no internal revenue tax is required to be paid;

(F) distilled spirits lawfully withdrawn from bond and not intended for sale or for use in the manufacture or production of any article intended for sale; or

(G) any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

* * * * * * *

(f) ACCOUNTABILITY.—All stamps relating to distilled spirits shall be used and accounted for under such regulations as the Secretary or his delegate may prescribe.

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

Subchapter M—Alcohol, Tobacco and Other Excise Taxes

[T.D. ATF-56]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Disaster Claims

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule; Treasury decision.

SUMMARY: This rule amends Subpart 0 of 27 CFR Part 170 (Miscellaneous Regulations Relating to Liquor) to implement Public Law 95-423, signed October 6, 1978. Pub. L. 95-423 extends the provisions in 26 U.S.C. 5064 for refund of internal revenue tax and customs duties on distilled spirits, wines, rectified products, and beer to include losses due to (1) fire, flood, casualty, or other disaster, or (2) damage (excluding theft) from vandalism or malicious mischief. Previously, claims for refund were limited to products damaged only as the result of a Presidentially declared major disaster.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT: Dorene F. Erhard, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION: Public Law 95-423, dated October 6, 1978 and effective February 1, 1979, amends 26 U.S.C. 5064 to provide for refund of internal revenue taxes earlier paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer which are lost, made unmarketable, or condemned due to—

(1) Fire, flood, casualty, or other disaster; or

(2) Breakage, destruction, or other damage (but not theft) resulting from vandalism or malicious mischief.

Background

The excise taxes and customs duties on distilled spirits, wines, rectified products, and beer are paid or determined before these products enter marketing channels. Prepaid excise taxes constitute a high proportion of the cost of alcoholic beverages as compared with excise taxes on other products. Thus, if alcoholic products held for sale are destroyed after taxes and duties have been paid, a large portion of the loss will be attributable to prepaid taxes which cannot be passed on to consumers.

Previously, 26 U.S.C. 5064 allowed refund of these taxes and duties earlier paid only if the loss was the result of a Presidentially declared major disaster. Congress felt that certain other circumstances, although not considered "major disasters", could result in substantial losses of alcoholic products and concluded that these losses should be treated in the same manner as losses caused by Presidentially declared major disasters. Thus, Public Law 95-423 extends the law to also allow refund of taxes and duties on alcoholic products that are lost or ruined as the result of other types of disasters or as the result of damage or destruction (except theft) from vandalism or malicious mischief.

$250 Minimum Claim

Before the change in the law, no minimum amount was prescribed for a claim for refund of taxes, or taxes and duties, allowable under the Presidentially declared major disaster provision. Public Law 95-423 makes no change on this point and claims arising from "major disasters" are not affected.

However, the new law does impose a minimum amount of $250 on a claim resulting from a disaster or damage other than a major disaster declared by the President. The $250 minimum applies to each single disaster or damage event. In other words, the taxes or duties lost from a series of events cannot be totaled or averaged. Furthermore, any loss other than the amount for taxes and duties cannot be attributed to the $250 minimum, even if that loss is the result of the same event.

Additional Provisions of Law

In order for a claim to be allowable under 26 U.S.C. 5064, the disaster or damage must have occurred in the United States and the distilled spirits, wines, rectified products, or beer must have been damaged while being held for sale at the wholesale or retail level. Refund is not available for losses of taxes or duties which were indemnified by insurance or otherwise. The law also disallows refund on Puerto Rican products brought into the United States.

Claims for refund under this law must be filed within 6 months after the date of the loss, except that in the case of claims filed under the Presidentially declared major disaster provision, the claim period is not to expire before the day which is 6 months after the date on which the President determined the disaster occurred. Thus, in some cases, a longer claim period is provided than was available under the previous law.

Other Changes to the Regulations

In addition to implementing the new law, several miscellaneous amendments are being made to Subpart O of Part 170.

(1) Three public use forms (a) Form 2606, Inventory of Spirits Lost by Disaster, (b) Form 2606A, Inventory of Wine Lost by Disaster, and (c) Form 2606B, Inventory of Beer Lost by Disaster, are being eliminated. The purpose of these forms is to support disaster claims for taxes and duties on alcoholic products that were lost, became unmerchantable, or were condemned by an authorized official.

In most cases, claimants are required to submit the same documentation to state and local governments for refund of excise taxes. This documentation is prepared in the form of commercial records and may not be kept in the same format as the inventory forms required by ATF. Since commercial records are sufficient for Bureau auditing purposes, as long as certain minimum information is recorded, we are eliminating the burden of duplicate reporting on ATF forms and simply allowing commercial records to be submitted in support of disaster claims.

(2) A number of title and definition changes are made to reflect reorganization changes that have affected the Bureau over the past several years and to update statutory citations and references to other agencies.

(3) This Treasury decision also clarifies and simplifies the regulatory language in Subpart O, in keeping with our aim of writing improved regulations for easy public understanding.

Drafting Information

The principal author of this regulation is Dorene F. Erhard, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices in the Bureau and from the Treasury Department participated in developing the regulation in matters of substance and style.

Authority and Issuance

Since this Treasury decision is liberalizing in nature and implements Public Law 95-423, effective February 1, 1979, it is found unnecessary and contrary to public interest to issue this regulation according to public rulemaking and effective date requirements in 5 U.S.C. 553(b) and (d).

This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Specific Changes to the Regulations

In consideration of the foregoing, we are amending Subpart O of 27 CFR Part 170 to read as follows:

Subpart O—Losses Resulting from Disaster, Vandalism, or Malicious Mischief

AUTHORITY: The provisions of this Subpart O contained in Sec. 201, Pub. L. 85-859, 72 Stat. 1337, as amended by Pub. L. 95-423, 92 Stat. 935; 26 U.S.C. 5064, unless otherwise noted.

General

§ 170.301 Scope of subpart.

(a) This subpart implements 26 U.S.C. 5064, which permits payments to be made by the United States for amounts equal to the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer, previously withdrawn, that were lost, made unmarketable, or condemned by a duly authorized official as the result of disaster, vandalism, or malicious mischief.

(b) This subpart applies to disasters or other specified causes of loss, occurring on or after February 1, 1979.

(c) This subpart does not apply to distilled spirits, wines, rectified products, and beer manufactured in Puerto Rico and brought into the United States.

§ 170.302 Forms prescribed.

The Director is authorized to prescribe all forms required by this part, including applications, claims, records, and reports. Information called for shall be furnished in accordance with the instructions on the forms.

Definitions

§ 170.303 Meaning of terms.

When used in this subpart, terms are defined as follows in this section. Words in the plural shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

Alcoholic liquors, or liquors. Distilled spirits, wines, rectified products, and beer, lost, made unmarketable, or condemned, as provided in this subpart.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or other similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume on which the internal revenue tax has been paid or determined, and, if imported, on which duties have been paid.

Claimant. The person who held the liquors for sale at the time of the disaster or other specified cause of loss and who files a claim under this subpart.

Commissioner of Customs. The Commissioner of Customs, U.S. Customs Service, the Department of the Treasury, Washington, D.C.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Distilled spirits, or spirits. Ethyl alcohol and other distillates, such as whisky, brandy, rum, gin, and vodka, on which the internal revenue tax has been paid or determined, and, if imported, on which duties have been paid.

Duly authorized official. Any Federal, State, or local government official who is authorized to condemn liquors on which a claim is filed under this subpart.

Duty or duties. Any duty or duties paid under the customs laws of the United States.

Major disaster. A flood, fire, hurricane, earthquake, storm, or other catastrophe defined as a "major disaster" under the Disaster Relief Act (42 U.S.C. 5122(2)), which occurs in any part of the United States and which the President has determined causes sufficient damage to warrant "major disaster" assistance under that Act.

Rectified products. Liquors manufactured by rectifying, purifying, refining, mixing, or blending distilled spirits or wines and on which tax has been paid or determined, and, if imported, on which duty has been paid.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Tax. (a) With respect to unrectified distilled spirits, "tax" means the internal revenue distilled spirits tax that is paid or determined on the spirits.

(b) With respect to wines, "tax" means the internal revenue wine tax that is paid or determined on the wine.

(c) With respect to rectified products, "tax" means the internal revenue distilled spirits tax, the rectified tax (if any), the cordial tax (if any), and the wine tax (if any), that is paid or determined on the products.

(d) With respect to beer, "tax" means the internal revenue beer tax that is paid or determined on the beer.

United States. When used in a geographical sense includes only the States and the District of Columbia.

Wines. All still wines, effervescent wines, and flavored wines, on which internal revenue wine tax has been paid or determined, and, if imported, on which duty has been paid.

Payments

§ 170.304 Circumstances under which payment may be made.

(a) *Major disasters.* Regional regulatory administrators shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, rectified products, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of a major disaster (as defined in § 170.303).

(b) *Other causes of loss.*

(1) *Payment.* Regional regulatory administrators shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, rectified products, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of (i) fire, flood, casualty, or other disaster, or (ii) breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief.

(2) *Minimum claim.* No claim of less than $250 will be allowed for losses resulting from any disaster or damage described in paragraph (b)(1) of this section.

(c) *General.* Payment under this section may be made only if—

(1) The disaster or other specified cause of loss occurred in the United States;

(2) At the time of the disaster or other specified cause of loss, the liquors were being held for sale by the claimant;

(3) Refund or credit of the amount claimed, or any part of the amount claimed, has not or will not be claimed for the same liquors under any other law or regulations; and

(4) The claimant was not indemnified by any valid claim of insurance or otherwise for the tax, or tax and duty, on the liquors covered by the claim.

Claims Procedures

§ 170.305 Execution and filing of claim.

(a) *General.* (1) Claims under this subpart shall be filed on IRS Form 843, in original only, with the regional regulatory administrator of the region in which the liquors were lost, became unmarketable, or were condemned.

(2) The claim shall include all the facts on which the claim is based, and be accompanied by a record of inventory of the liquors lost, made unmarketable, or condemned. (See § 170.305a.)

(3) The claim shall contain a statement that no other claim for refund or credit of the amount claimed, or for any part of the amount claimed, has been or will be filed under any other law or regulations.

(b) *Major disasters.* Claims for refund of tax, or tax and duty, on liquors which were lost, became unmarketable, or were condemned as the result of a major disaster must be filed not later than 6 months from the day on which the President determines that a major disaster has occurred.

(c) *Other causes of loss.* Claims for amounts of $250 or more for refund of tax, or tax and duty, on liquors which were lost, became unmarketable, or were condemned as the result of (1) fire, flood, casualty, or other disaster, or (2) damage (excluding theft) resulting from vandalism or malicious mischief, must be filed within 6 months after the date on which the disaster or damage occurred. Claims for amounts less than $250 will not be allowed.

§ 170.305a Record of inventory to support claims.

(a) *Claims relating to distilled spirits.* The record of inventory of distilled spirits lost, made unmarketable, or condemned, which is required to support claims filed under § 170.305, shall show the following information:

(1) Name and business address of claimant (as shown on claim, IRS Form 843).

(2) Address where the spirits were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of spirits.

(4) Brand name.

(5) *For full cases, show—*
  (i) Number of cases;
  (ii) Serial numbers;
  (iii) Bottles per case;
  (iv) Size of bottles;
  (v) Wine gallons per case;
  (vi) Proof; and
  (vii) Proof gallons.

(6) *For bottles not in cases, show—*
  (i) Total number;
  (ii) Size of bottles;
  (iii) Wine gallons;
  (iv) Proof; and
  (v) Total proof gallons.

(7) Total proof gallons for all items.

(b) *Claims relating to wines.* The record of inventory of wines lost, made unmarketable, or condemned, which is required to support claims filed under § 170.305, shall show the following information:

(1) Name and business address of claimant (as shown on claim, IRS Form 843).

(2) Address where the wines were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of wine.

(4) Percent of alcohol by volume.

(5) Number of barrels or kegs.

(6) Kind and number of other bulk containers.

(7) Number of full cases and bottles per case.

(8) Size of bottles.

(9) Number of bottles not in cases and wine gallons.

(10) Total wine gallons.

(c) *Claims relating to beer.* The record of inventory of beer lost, made unmarketable, or condemned, which is required to support claims filed under § 170.305, shall show the following information:

(1) Name and business address of claimant (as shown on claim, IRS Form 843).

(2) Address where the beer was lost, became unmarketable, or was condemned, if different from the business address.

(3) Number and size of barrels.

(4) *For full cases, show—*

(i) Number of cases

(ii) Bottles or cans per case; and

(iii) Size (in ounces) of bottles or cans.

(5) Number and size of bottles and cans not in cases.

(6) Quantity in terms of 31-gallon barrels.

(7) Total quantity.

(d) *Special instructions.*

(1) Inventories of domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands shall be reported separately.

(2) Liquors manufactured in Puerto Rico may not be included in claims filed under this subpart. Claims for losses of Puerto Rican liquors shall be filed with the Secretary of the Treasury of Puerto Rico under the laws of Puerto Rico.

§ 170.306 Claims relating to imported, domestic, and Virgin Islands liquors.

(a) Claims involving taxes on domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands must show the quantities of each separately in the claim.

(b) A separate claim on IRS Form 843 must be filed for customs duties.

§ 170.307 Claimant to furnish proof.

The claimant shall furnish proof to the satisfaction of the regional regulatory administrator regarding the following:

(a) That the tax on the liquors, or the tax and duty if imported, was fully paid; or the tax, if not paid, was fully determined.

(b) That the liquors were lost, made unmarketable, or condemned by a duly authorized official, by reason of damage sustained as a result of a disaster or other cause of loss specified in this subpart.

(c) The type and date of occurrence of the disaster or other specified cause of loss, and the location of the liquors at that time.

(d) That the claimant was not indemnified by a valid claim of insurance or otherwise for the tax, or tax and duty, on the liquors covered by the claim.

(e) That the claimant is entitled to payment under this subpart.

§ 170.308 Supporting evidence.

(a) The claimant shall support his claim with any evidence (such as inventories, statements, invoices, bills, records, labels, formulas, stamps) that he is able to submit, relating to the quantities and identities of the liquors, on which duty has been paid or tax has been paid or determined, that were on-hand at the time of the disaster or other specified cause of loss and alleged to have been lost, made unmarketable, or condemned as a result of it.

(b) If the claim is for refund of duty, the claimant shall furnish, if possible—

(1) The customs number;

(2) The date of entry; and

(3) The name of the port of entry.

§ 170.309 Action on claims.

The regional regulatory administrator shall date stamp and examine each claim filed under this subpart and will determine the validity of the claim. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement by the regional regulatory administrator regarding his findings.

Destruction of Liquors

§ 170.310 Supervision.

When allowance has been made under this subpart for the tax, or tax and duty, on liquors condemned by a duly authorized official or made unmarketable, the liquors shall be destroyed by payments made under this subpart the same as if the payments were actual refunds of internal taxes on liquors.

(Pub. L. 83-591, 68A Stat. 852, 853; 26 U.S.C. 7206, 7207)

Signed: February 23, 1979

G. R. Dickerson
Director

Approved: March 2, 1979

Richard J. Davis
Assistant Secretary
(Enforcement and
Operations)

Published in the Federal Register of March 15, 1979.

EXCERPTS FROM THE REGULATIONS IN 26 CFR PART 250, "LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS"

Subpart B—Definitions

Sec. 250.11 Meaning of terms.—When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Article. Any preparation unfit for beverage use, made with or containing:

(1) Wine or beer;

(2) Distilled spirits or industrial spirits; or

(3) Denatured spirits when such preparation is not manufactured under the provisions of this subchapter.

Industrial spirits. As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this subchapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquors. Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

Subpart C—Products Coming into the United States from Puerto Rico

Sec. 250.35 Taxable status.—Liquors coming into the United States from Puerto Rico except, as provided in sec. 250.36, are subject to a tax equal to the internal revenue tax imposed on the production in the United States of like liquors. Articles coming into the United States from Puerto Rico, except as provided in sec. 250.36, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

Sec. 250.36 Products exempt from tax.—Subject to the provisions of this part, the following products may be brought into the United States from Puerto Rico without incurring liability to any tax imposed by section 5001(a)(10) or section 7652(a) of the internal Revenue Code:

(a) Industrial spirits for the purposes authorized in section 5214(a) (2) and (3), I.R.C.,

(b) Denatured spirits, and

(c) Products manufactured from denatured spirits under the provisions of section 250.36a.

Sec. 250.36a Production in Puerto Rico for tax-free shipment to United States.—(a) Regulations applicable to industrial spirits. The provisions of this subchapter relating to the production, bonded warehousing, and the withdrawal from bond of spirits in the United States shall extend to and apply in Puerto Rico in respect of the production, bonded warehousing, and withdrawal of industrial spirits for shipment to the United States free of tax for the purposes authorized in section 5214(a) (2) and (3), I.R.C.

(b) *Regulations applicable to denatured spirits and products manufactured with denatured spirits.*—The provisions of this subchapter relating to the production, bonded warehousing, and denaturation of spirits, and the withdrawal from bond of denatured spirits in the United States shall extend to and apply in Puerto Rico in respect of the production, bonded warehousing, and denaturation of spirits, and to the withdrawal of denatured spirits, where the denatured spirits are to be shipped to the United States free of tax, or are to be used in the manufacture of products containing such denatured spirits for shipment to the United States free of tax. The provisions of this subchapter relating to the withdrawal and use of denatured spirits in the manufacture of products in the United States shall extend to and apply in Puerto Rico in respect of the withdrawal and use, in Puerto Rico, of denatured spirits in the manufacture of products containing such denatured spirits for shipment to the United States free of tax.

Sec. 250.36b Tax-free shipments to the United States.—The provisions of subpart Ia shall apply to:

(a) Industrial spirits coming into the United States from Puerto Rico free of tax for the purposes authorized in section 5214(a) (2) and (3), I.R.C., and

(b) Denatured spirits and products containing denatured spirits coming into the United States from Puerto Rico free of tax.

The law does not authorize the transfer of spirits from the bonded premises of a plant in Puerto Rico to the bonded premises of a plant in the United States.

Subpart E—Taxpayment in Puerto Rico

Permit to Ship Liquors and Articles

Sec. 250.114 Permit to ship required.—Before liquors and articles of Puerto Rican manufacture, upon which all internal revenue taxes have been paid or deferred as prescribed in this subpart, may be shipped to the United States, a permit to ship, Form 487B, must be obtained from the Secretary as provided in secs. 250.115 and 250.116.

Sec. 250.115 Application, Form 487B.—Application for permit to ship to the United States liquors and articles of Puerto Rican manufacture on which all taxes have been paid or deferred as prescribed in this subpart shall be made by the shipper on Form 487B, in sextuple. Each Form 487B will be given a serial number, by the applicant, beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. This serial number will be prefixed by the last two digits of the calendar year, e.g. "61-1." All copies of the form shall be delivered to the revenue agent for execution of his certification thereon and forwarding of all copies to the Secretary within sufficient time to allow for the issuance of the permit and customs inspection as provided in sec. 250.116.

Sec. 250.116 Issuance of permit, Form 487B, and customs inspection.—If the application has been properly executed and the Secretary, or his delegate, finds that all internal revenue taxes imposed under section 7652(a), I.R.C., have been computed under the provisions of this part and have been paid or, pursuant to a sufficient bond, have been deferred under the applicable provisions of this part, he will execute his permit on all copies thereof, retain one copy of the form, return two copies to the shipper, and send three copies to the collector of customs in Puerto Rico. The shipper will submit the two copies of the Form 487B to the collector at least six hours prior to the intended lading of the merchandise. The collector will then inspect the merchandise covered by the Form 487B after which he will execute his certificate on each copy of Form 487B indicating all exceptions. If discrepancies appear indicating differences between the quantity covered by Form 487B and the quantity actually contained in the shipment or the improper taxpayment of the merchandise, he will withhold release of the shipment and notify the Secretary of such discrepancies. Thereupon, such discrepancies must be corrected in the shipping documents and additional tax paid, if required, prior to release of the merchandise. The collector, upon release of the merchandise for shipment, will retain one copy of the Form 487B, return two copies to the shipper, and send two copies to the collector of customs at the port of arrival in the United States, one of which should be mailed and the other dispatched on the vessel concerned for the guidance of the inspector who will handle the cargo. After the shipment has been cleared by the collector of customs in Puerto Rico, the shipper shall retain one copy of the Form 487B and send one copy thereof, with other shipping documents, to the collector of customs at the port of arrival.

Procedure at Port of Arrival

Sec. 250.117 Action by carrier.—The carrier of the merchandise specified on the Form 487B shall, at the time of unlading at the port of arrival in the United States, segregate and arrange the cases of liquors or articles for convenient customs examination and will assume any expense incurred in connection therewith.

Sec. 250.118 Inspection by collector of Customs at port of arrival.—On receipt of properly executed Form 487B from the shipper and the copies of Form 487B from the collector of customs in Puerto Rico, the collector of customs at the port of arrival shall inspect the merchandise to determine whether the quantity specified on the Form 487B is contained in the shipment. He will then execute his certificate on each copy of Form 487B received and indicate thereon any exceptions found at the time of discharge. The statement of exceptions should show the serial number of each case or other shipping container which sustained a loss, the quantity of liquor reported shipped in such container and the quantity lost. Losses occurring as the result of missing bottles, cases, or other containers should be listed separately from empty containers and containers which have sustained losses due to breakage. Where the statement is made on the basis of bottles missing or lost due to other cause, the number and size of bottles lost should be shown. If the collector finds that the full amount of the taxes due has not been paid, he will require the difference due to be paid prior to release of the merchandise in accordance with the applicable provisions of this part. When the proper inspection of the merchandise has been effected, and any additional taxes found to be due on the liquors or articles collected, the merchandise will be released.

Sec. 250.119 Disposition of forms by collector of customs.—Two copies of the Form 487B will be forwarded to the United States Internal Revenue Service office, and one copy of the form will be retained by the collector of customs and be available for inspection by internal revenue officers. If the taxpayer files a claim for refund of tax on losses, the Officer-in-Charge will forward to the assistant regional commissioner of the region in which the port of arrival is located a copy of the completed Form 487B with the claim for refund.

Subpart F—Liquors and Articles Purchased by Tourists in Puerto Rico

Sec. 250.125 Taxable.—When liquors and articles subject to tax are brought into the United States by tourists, the tax thereon shall be paid as provided in this subpart.

Sec. 250.126 Taxpayment in Puerto Rico.—Liquors upon which all Federal internal revenue taxes have been paid in Puerto Rico may be brought into the United States for personal consumption without payment of additional taxes thereon. Containers of spirits taxpaid and bottled for sale to tourists shall have red strip stamps affixed by the distiller, bottler, or rectifier who paid the tax, and such stamps on bottles in possession of tourists shall be evidence to customs authorities at the port of departure and at the port of arrival that the tax on the spirits has been paid. When distilled spirits not bearing such stamps, or when wines, or beer, are purchased by a tourist for consumption in the United States, the internal revenue tax due thereon may be paid to the United States Internal Revenue Service office, and an internal revenue receipt obtained, or the tax may be paid to the U.S. Customs authorities, who will issue a customs receipt. The tax on articles purchased by tourists may be paid in the same manner. The receipt received from the United States Internal Revenue Service office or from the customs officer shall be presented, as required, as evidence that the tax has been paid.

Sec. 250.127 Report of red strip stamps used.—The insular internal revenue agent will record and report the use of red strip stamps on taxpaid spirits bottled for sale to tourists in Puerto Rico as provided in sec. 250.146.

Sec. 250.128 Taxpayment at port of arrival.—If the internal revenue tax on liquors and articles is not paid in Puerto Rico, it shall be paid by the tourists at the port of arrival prior to release of the liquors or articles from customs custody. The tax may be paid to the district director of internal revenue, and an internal revenue receipt obtained, or the tax may be paid to the collector of customs, who will issue a customs receipt. If payment is to be made to the district director, the collector of customs will notify the district director of the amount of tax due. On payment of the tax to the collector of customs, or on submission to him of the internal revenue receipt for the tax, the collector of customs will release the liquors or articles. Liquors brought into the United States by tourists for personal consumption are not required to be strip stamped when taxpaid by the tourist, whether at the port of departure in Puerto Rico or on arrival in the United States.

(Note: Customs has made arrangements with the Internal Revenue Service at ports where travelers from Puerto Rico generally arrive to accept such taxpayments directly from the tourist.)

Subpart G—Procurement and Use of Red Strip Stamps for Distilled Spirits from Puerto Rico

Sec. 250.135 Containers of distilled spirits to bear red strip stamps.—Immediate containers of 1 gallon or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or deferred in Puerto Rico under the provisions of this part, shall have red strip stamps affixed thereto in accordance with the provisions of this subpart, prior to shipment to the United States. Except as provided in sec. 250.185, containers having a capacity of 1 gallon or less, containing distilled spirits which have not been taxpaid in Puerto Rico, may not be red strip stamped.

Sec. 250.137 Size of red strip stamps.—Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 1/2 pint capacity or more, and in a small size for bottles or containers of less than 1/2 pint capacity.

Sec. 250.145 Marking of cases.—The distiller, rectifier, or bottler shall plainly and legibly mark upon each case containing bottles of distilled spirits to which red strip stamps are attached, the following legend:

The red strip stamps required by section 5202, Internal Revenue Code, are affixed to the ________ , ________ ,
(Number) (Size)
containers of distilled spirits in this case.

____
(Name of distiller, rectifier, or bottler)

This legend when stamped on the case may be accepted by customs officers as evidence that the containers bear the stamps as indicated by the certification.

Subpart 1—Taxpayment in Puerto Rico upon Withdrawal after Rectification or Bottling

Sec. 250.186 Withdrawal for shipment to United States.—Withdrawal of liquors for shipment to the United States may be made only after taxpayment.

Subpart 1a—Tax-Free Shipments to the United States from Puerto Rico

Sec. 250.191 Samples and analysis.—Whenever completely denatured spirits, produced and denatured under the provisions of this subchapter, or proprietary or special industrial solvents, proprietary antifreeze solutions, and toilet preparations (bay rum, hair lotions, skin lotions, and similar products) manufactured under the provisions of this subchapter with denatured spirits produced and denatured under the provisions of this subchapter are shipped in containers larger than 5 wine gallons from Puerto Rico to the United States exempt from tax under the provisions of sec. 250.36, the shipper shall notify the chemist in charge in Puerto Rico, who will have representative samples taken from each shipment for examination. Such samples must definitely represent the products which are to be shipped. It will not be necessary to sample every container, as samples taken at random from large shipments will be considered as representative of the entire lot. The samples will be examined promptly by the chemist who will forward a copy of his chemical report to the assistant regional commissioner of the region where the port of arrival is located. The report will show whether the product conforms to authorized formulas for completely denatured spirits, or to the formulas on approved Form 1479A for such products, and must contain sufficient data to definitely identify the particular shipment involved.

Sec. 250.192 Action by assistant regional commissioner.—If the chemical report discloses to the assistant regional commissioner that the product conforms to an approved formula, he will promptly advise the collector of customs at the port of arrival that the shipment may be released free of tax. If the report discloses that the product does not conform to an approved formula, the assistant regional commissioner will request the collector of customs to detain the product and will forward a copy of the report to the Director, Alcohol and Tobacco Tax Division, for advice as to the disposition of the product.

Sec. 250.193 Certificate.—Every person shipping into the United States from Puerto Rico free of tax, pursuant to secs. 250.36 and 250.36a, (a) industrial spirits produced and withdrawn in Puerto Rico in accordance with the provisions of this subchapter relating to the production, bonded warehousing, and the withdrawal from bond of spirits in the United States, (b) distilled spirits produced, warehoused (if applicable), denatured, and withdrawn in Puerto Rico in accordance with the applicable provisions of this subchapter relating to the production, bonded warehousing, denaturation, and the withdrawal from bond of denatured spirits in the United States, and (c) products containing such denatured spirits and manufactured in accordance with the provisions of this subchapter relating to the use of denatured spirits in the United States, shall certify, in the English language, to such fact on the face of the shipper's waybill. Where the product is made pursuant to approved Form 1479-A, the shipper shall also certify as follows:

Made with ____________________ denatured spirits,
(Completely or specially)
Formula No. ________, pursuant to Form 1479-A, approved
________________, 19______.

Sec. 250.194 Marking containers.—In addition to such other data as may be required by Part 211 of this chapter to be marked on packages of products containing denatured spirits, the name, address, and permit number of the manufacturer shall appear on each shipping container of such products shipped from Puerto Rico to the United States free of tax.

Sec. 250.195 Arrival in the United States.—When industrial spirits, denatured spirits, and products containing denatured spirits, coming into this country from Puerto Rico, are covered by shipper's documents bearing the manufacturer's certificate prescribed in sec. 250.193, the collector of customs will inspect and verify the consignment. If no discrepancies are found, the products may be released free of tax: *Provided,* That in the case of products required to be examined by the chemist in charge in Puerto Rico in accordance with sec. 250.191, release shall be withheld until advice is received from the assistant regional commissioner that the shipment may be released free of tax, as provided in sec. 250.192.

Subpart J—Products Coming into the United States from the Virgin Islands

Sec. 250.200 Taxable status.—Liquors coming into the United States from the Virgin Islands are subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like liquors. Articles coming into the United States from the Virgin Islands, except as provided in sec. 250.201, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

Sec. 250.201 Products exempt from tax.—Subject to the provisions of this part, the following products may be brought into the United States from the Virgin Islands without incurring liability to the tax imposed by sec. 7652(b) (1) of the Internal Revenue Code:

(a) Industrial spirits for the purposes authorized in sec. 5214(a) (2) and (3), I.R.C.,

(b) Denatured spirits manufactured in the Virgin Islands, and

(c) Products manufactured in the Virgin Islands with denatured spirits under the provisions of sec. 250.201a.

Sec. 250.201a Production in the Virgin Islands for tax-free shipment to the United States.—(a) *Authority of the Governor to issue regulations.*—The Governor of the Virgin Islands, or his duly authorized agents, are authorized to issue or adopt such regulations (and to approve such bonds, and to issue, suspend, or revoke such permits, as may be required by such regulations) as are necessary to insure that.

(1) Industrial spirits produced or manufactured in the Virgin Islands and shipped to the United States free of tax for the purposes authorized in section 5214(a) (2) and (3), I.R.C.,

(2) Denatured spirits manufactured in the Virgin Islands for shipment to the United States free of tax, and

(3) Products manufactured in the Virgin Islands with denatured spirits, for shipment to the United States free of tax, conform in all respects to the requirements of law and this chapter imposed on like products of domestic manufacture.

(b) *Law and regulations applicable.*—Regulations having been issued by the Governor of the Virgin Islands and concurred in by the Secretary of the Treasury of the United States to govern the production, warehousing, and denaturation of spirits and the use of denatured spirits in the manufacture of products for shipment to the United States free of tax, such regulations are applicable in the Virgin Islands and the Virgin Islands are hereby exempted from

(1) All provisions of chapter 51, I.R.C., with the exception of section 5314(b) and section 5687, I.R.C., and

(2) The provisions of this subchapter in respect of the production, bonded warehousing, denaturation, and withdrawal of distilled spirits and the use of denatured spirits in the United States: *Provided,* That such exemption shall be effective only to the extent that any amendments or revisions of the regulations issued by the Governor of the Virgin Islands, or his duly authorized agents, are concurred in by the Secretary of the Treasury of the United States or his delegate. Otherwise, all provisions of law as provided in section 5314(b), I.R.C., and the provisions of this subchapter in respect of the production, bonded warehousing, denaturation, and withdrawal from bond of distilled spirits and denatured spirits and the use of denatured spirits in the manufacture of products shall extend to and apply in the Virgin Islands (1) in respect of the production, bonded warehousing, and withdrawal of spirits for shipment to the United States free of tax for the purposes authorized in section 5214(a) (2) and (3), I.R.C., and (2) in respect of the production, bonded warehousing, and denaturation of spirits and to the withdrawal and use of denatured spirits, where the denatured spirits or products containing denatured spirits are to be shipped to the United States free of tax.

Sec. 250.201b Tax-free shipment to the United States.—The provisions of Subpart O shall apply to:

(a) Industrial spirits coming into the United States from the Virgin Islands free of tax for the purposes authorized in section 5214(a) (2) and (3), I.R.C., and

(b) Denatured spirits and products containing denatured spirits coming into the United States from the Virgin Islands free of tax. The law does not authorize the transfer of spirits from the bonded premises of a plant in the Virgin Islands to the bonded premises of a plant in the United States.

Sec. 250.202 Requirements of the Federal Alcohol Administration Act.—Every person, except an agency of a State or a political subdivision thereof or any officer or employee of any such agency, bringing liquors into the United States from the Virgin Islands for non-industrial use must obtain an importer's basic permit therefor and file with the collector of customs at the port of entry a certified or photostatic copy thereof, and every person and any agency of a State or political subdivision thereof or any officer or employee of such agency, bringing liquors into the United States from the Virgin Islands for nonindustrial use must file with the collector of customs at the port of entry a certificate of label approval, in accordance with the requirements of the Federal Alcohol Administration Act and regulations issued pursuant thereto. Tourists bringing liquors into the United States for personal or other noncommercial use are not subject to the provisions of the Federal Alcohol Administration Act or regulations issued pursuant thereto. (27 CFR Parts 1, 4, 5, 7)

Sec. 250.203 Containers of 1 gallon or less.—Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity of not less than one-half pint and not more than 1 gallon, shall conform to the requirements of Part 175 of this chapter.

Sec. 250.203a Containers in excess of 1 gallon.—Containers of distilled spirits brought into the United States from the Virgin Islands, having a capacity in excess of 1 gallon, are required to be marked and stamped in accordance with customs regulations (19 CFR Chapter 1).

Sec. 250.204 Regauge.—Distilled spirits withdrawn from insular bonded warehouses for bottling without rectification or for rectification and bottling and shipment to the United States may be guaged at the time of withdrawal by an insular gauger. A report of gauge shall be prepared by the insular gauger showing the name of the distiller, the serial number, the proof of the spirits, and the wine and proof gallon contents of each package gauged. The report of gauge shall be attached to the certificate prescribed in sec. 250.205.

Sec. 250.205 Certificate.—Every person bringing liquors or articles under this part into the United States from the Virgin Islands, except tourists, shall obtain a certificate in the English language from the manufacturer showing, for each shipment, the following information:

(a) The name and address of the consignee;

(b) The kind and brand name;

(c) The quantity thereof as follows:

(1) If distilled spirits, the wine and proof gallons.

(2) If beer, the gallons, liquid measure, and the percent of alcohol by volume.

(3) If articles, the kind, quantity, and proof of liquors used therein.

(d) The number and date of the approved formula;

(e) A declaration that it has been manufactured in accordance with the formula;

(f) The name and address of the person filing such formula;

(g) A certification by the insular gauger that the spirits covered by such certificate were or were not regauged by him when withdrawn from the insular bonded warehouse and, if regauged, were at that time at the proofs indicated on the attached report of gauge.

The consignee shall file the certificate and report of gauge with the collector of customs at the port of entry, as provided in sec. 250.260.

Subpart K—Formulae and Processes for Products from the Virgin Islands

Sec. 250.226 Disposition.—When the formula and process have been examined, the rate of tax applicable thereto will be indicated on each copy of Form 27-B Supplemental, one copy each will be forwarded to the collector of customs at each designated port of entry, to the Governor of the Virgin Islands, to the assistant regional commissioner of the region in which such port is located, and to the manufacturer, and one copy will be retained in the files of the Director, Alcohol and Tobacco Tax Division.

Subpart L—Red Strip Stamps for Distilled Spirits from the Virgin Islands

General

Sec. 250.230 Containers of distilled spirits to bear red strip stamps.—No person shall transport, possess, buy, sell, or transfer any distilled spirits brought into the United States from the Virgin Islands unless the immediate container thereof is stamped with a red strip stamp evidencing the determination or payment of all internal revenue taxes thereon. The provisions of this section shall not apply to:

(a) Distilled spirits in customs custody;

(b) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale;

(c) Distilled spirits on which no internal revenue tax is required to be paid;

(d) Distilled spirits in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto; or

(e) Any regularly established common carrier, receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

Sec. 250.231 Persons authorized to affix red strip stamps.—Red strip stamps shall be affixed to containers of distilled spirits as follows:

(a) By the bottler or exporter in the Virgin Islands; or

(b) By the importer or owner under customs supervision.

Sec. 250.232 Size of red strip stamps.—Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 1/2 pint capacity or more, and in a small size for bottles or containers of less than 1/2 pint capacity.

Red Strip Stamps to be Affixed in the Virgin Islands

Sec. 250.236 Conditions.—Red strip stamps may be procured by an importer, or his duly authorized agent, to be affixed to containers of distilled spirits by the bottler or exporter in the Virgin Islands as provided in this subpart.

Sec. 250.237 Requisition, Form 428.—Requisition for red strip stamps shall be made by the importer, or his duly authorized agent, or by the subsequent purchaser of the distilled spirits, on Form 428, in triplicate. The local address of the importer, or his agent, shall be given on Form 428. At the time the importer presents his first Form 428 for approval, he shall present and file (if he has not already done so) with the collector of customs a certified or photostatic copy of his importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder. All Forms 428 shall be submitted to the collector of customs of the district in which the place of business of the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, is located. Collectors of customs shall refuse to approve requisitions, Form 428, submitted by any person or his agent when the collector has knowledge that such person or his agent has, because of failure to account for stamps, been denied approval of a requisition, Form 428, and has not yet accounted for such stamps. All strip stamps issued on Form 428 shall be accounted for, in the manner prescribed in this part, within 18 months from the date of requisition, or within such additional extension of time as may be granted under sec. 250.239.

Sec. 250.238 Statement, Form 1627.—The importer, or his duly authorized agent, shall submit, with Form 428 for stamps to be sent to the Virgin Islands, a statement on Form 1627, executed under the penalties of perjury:

(a) That the stamps are requisitioned for sending to the Virgin Islands and are required to supply existing orders and/or represent a reasonable anticipation of current requirements;

(b) That a complete accounting for such stamps will be made within eighteen months from the date of requisition (or within such additional extension of time as may be granted under sec. 250.239) in accordance with the provisions of this part;

(c) Either that no Form 428 from the importer or his duly authorized agent is and has been open beyond eighteen months, or, if any Forms 428 are open, specifying those that are open beyond eighteen months; and

(d) That the requisitionist understands that failure to account for the strip stamps will be grounds for rejection of subsequent requisitions for red strip stamps.

Sec. 250.239 Extension of time for final accounting of strip stamps.—Where an importer is not able, within the eighteen-month period prescribed in sec. 250.237, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, prior to the expiration of the eighteen-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension or extensions, not to exceed a total of twelve months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the Commissioner of Customs who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in sec. 250.235.

Sec. 250.240 Approval of requisition.—The collector of customs will approve Form 428 if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(2) That the quantity requisitioned is reasonable and necessary for distilled spirits to be brought into the United States from the Virgin Islands to supply existing orders and/or anticipated requirements, or to be removed from customs custody, as provided in this part; and

(3) That his records show that all strip stamps which may have been previously issued to the importer have been properly and timely accounted for as provided in this part; and

(b) Has not been informed that the importer or his agent has been denied approval of a requisition and has not accounted for the stamps on account of which such denial was given.

When satisfied that Form 428 may be approved, the collector of customs shall signify his approval on all copies of Form 428, retain Form 1627 (if any) and one copy of Form 428, and return the original and remaining copy of Form 428 to the applicant for submission to the proper district director of internal revenue.

Sec. 250.241 Procurement of red strip stamps.—Red strip stamps shall be procured by the importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, from the district director of internal revenue of the district in which the place of business of such applicant is located. The applicant shall forward to the district director of internal revenue the original and copy of the approved Form 428. The district director of internal revenue may issue the exact number of stamps requisitioned thereon even though it is necessary to use portions of sheets. The district director of internal revenue shall enter the serial numbers of the stamps issued and stamp the date of issue on both copies of Form 428, retain the original copy, and send the remaining copy to the collector of customs who approved it.

Sec. 250.242 Overprinting of red strip stamps.—The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps overprinted with the importer's real name and/or one of his approved trade names, consistent with the name of the importer as shown on the labels of the imported spirits to which the red strip stamps are to be applied. He shall submit the stamps to the collector of customs, who will verify the overprinting and make an endorsement showing the verification on Form 428 or on the retained original of Form 1627 where such form is submitted: *Provided*, That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter in the Virgin Islands.

Sec. 250.243 Marking of cases.—Where red strip stamps are affixed in the Virgin Islands, the bottler or exporter will plainly and legibly mark the following legend on each case of distilled spirits so stamped:

The red strip stamps required by section 5202, I.R.C., are affixed to the ________ (Number), ________ (Size), containers of distilled spirits in this case.

________ (Name of bottler or exporter)

Sec. 250.244 Endorsement of entries.—Upon arrival of the distilled spirits in this country, entries required to be filed under Customs Regulations (19 CFR Ch. I) shall have endorsed thereon by the importer, or his duly authorized agent, the following legend:

The red strip stamps required by section 5205, I.R.C., were affixed abroad. These stamps were procured by ________ (Name of importer) on a requisition, Form 428, Importer's No. ________, approved by the collector of customs

at ________ (Port where Form 428 was approved)

on ________ (Date of approval of Form 428)

Sec. 250.245 Request for credit of red strip stamps on distilled spirits deposited in a foreign-trade zone at specified port.—When red strip stamps are affixed in the Virgin Islands to containers of distilled spirits and, on arrival in the United States, the spirits are stored in a foreign-trade zone located at the port specified in the requisition, the importer may obtain credit of the red strip stamps against the appropriate requisition. In such cases, the zone application shall have endorsed thereon, by the importer or his duly authorized agent, the legend required by sec. 250.244. In addition, and as a condition of obtaining approval from the collector of customs for admission of the spirits to the zone, the importer or his duly authorized agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed under customs supervision prior to exportation. The collector of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed as provided in sec. 250.252.

Sec. 250.246 Credit of red strip stamps against requisition on arrival of distilled spirits at specified port.—Where entries required to be filed under Customs Regulations (19 CFR Chapter I) are filed at the port where the requisition was approved, the collector of customs who approved the requisition will credit the Form 428 described in the endorsement on the entry referred to in sec. 250.244 with the number and size of red strip stamps shown by the usual customs examination to have been attached to the containers. When distilled spirits are placed in a foreign-trade zone at the port of requisition and where the zone application complies with the provisions of sec. 250.245, the collector of customs shall credit the appropriate strip stamp record with the number and size of red strip stamps shown by the usual customs examination to have been affixed to the containers.

Sec. 250.247 Credit of red strip stamps against requisition on diversion of spirits to other than specified port.—In the event of diversion of all or part of the spirits to a port or ports, or to a foreign-trade zone at a port, other than the port specified in Form 1627 filed with the Form 428, the importer who requisitioned the stamps, or the importer at the port of diversion, or the duly authorized agent of either, shall prepare Form 1627A, in triplicate, for each such diversion. One copy of Form 1627A shall be promptly sent to the collector of customs at the port of requisition, and the original and remaining copy shall be filed with the collector of customs at the port of diversion at the time the required entry, or zone application, is filed. The corresponding entry or zone application at the port of entry shall be marked with the requisition and diversion numbers, and the name of the port of requisition, as shown on the Form 1627A. The provisions of sec. 250.245 shall, as applicable, cover stamps on spirits diverted to a foreign-trade zone located at a port other than the port specified in Form 1627. Such diverted spirits may not be released from customs custody or admitted into a foreign-trade zone until the required Form 1627A has been filed. The collector of customs at the port of diversion shall certify on both copies of Form 1627A as to the disposition of the spirits and of the stamps shown by the usual customs examination to have been affixed to the containers, and forward the original Form 1627A to the collector of customs at the port of requisition. He shall retain the copy of Form 1627A as a record copy in a separate file. On receipt of Form 1627A from the collector of customs at the port of diversion, the collector of customs at the port of requisition shall enter the appropriate credit on his strip stamp record, stamp "Strip stamps used and credited except as noted" on the Copy of Form 1627A originally received by him for such diversion, and send such copy to the importer, or importer's agent, who requisitioned the stamps. Such importer or agent may then take credit for the stamps on his strip stamp record.

Sec. 250.248 Follow-up procedure for Forms 1627A.—When the importer, or importer's agent, who requisitioned the stamps on Form 428 has not, within two months from the date of arrival of the spirits, received from the collector of customs the copy of Form 1627A noted as to credit of strip stamps by the collector, as provided for in sec. 250.247, he shall inquire of the collector of customs who approved the requisition, Form 428, whether the required report on Form 1627A has been received from the collector of customs at the port of diversion. If the collector of customs reports the nonreceipt of Form 1627A from the collector at the port of diversion, the importer, or the importer's agent, shall make a written inquiry, either directly or through the importer at the port of diversion, of the collector of customs at the port of diversion whether such collector has reported on the diversion. The inquiry shall show the entry number or identify the zone application, and shall be accompanied by two copies of the original Form 1627A marked "Follow-up: Prepared________." On receipt of the inquiry, the collector of customs of the port of diversion will compare the "Follow-up" copies with his file of record copies of Form 1627A. If he has a record copy showing that he forwarded the original Form 1627A, he shall insert any stamp data on the "Follow-up" copies, return one copy to the party who presented it, and forward the other copy to the collector of customs at the port of requisition. If the collector of customs at the port of diversion finds no corresponding record copy of Form 1627A, he shall use the "Follow-up" copies as original copies. In such case, he shall strike out the words "Follow-up," enter the stamp data thereon, retain one copy as his record copy, and forward the other copy to the collector of customs at the port of requisition. On receipt of the copy by the collector of customs at the port of requisition, the copy will be compared with the records. If the original Form 1627A has been received and the triplicate copy has already been forwarded to the importer, or to the importer's agent, the "Follow-up" copy shall also be sent to him without further action. If the collector of customs at the port of requisition finds that he has not received the original Form 1627A from the port of diversion, he shall use the "Follow-up" copy as the original of Form 1627A, and process it in accordance with sec. 250.247. On receipt of the copy of Form 1627A, the importer, or the importer's agent, may, unless he has already received his copy of Form 1627A, take credit for the stamps on his strip stamp record.

Sec. 250.249 Irregularities or discrepancies in shipments.—In case any irregularities or discrepancies are found, the collector of customs at the port of entry will make demand for redelivery of unexamined packages, and will not release examined or redelivered packages until satisfactory explanation and/or proper corrections have been made.

Sec. 250.250 Transfer of red strip stamps in the Virgin Islands.—Where an importer has shipped red strip stamps to a Virgin Islands bottler or exporter to be affixed to containers of distilled spirits to be brought into the United States, and he desires to transfer all or a part of these stamps to a bottler or exporter in the Virgin Islands other than the one named on the initial Form 1627, he shall first submit a written application in duplicate to the collector of customs who approved the requisition, Form 428. The application shall show:

(a) The serial number and date of the requisition, Form 428, covering issuance of the stamps;

(b) The name of the Virgin Islands bottler or exporter holding the stamps;

(c) The number and size of the stamps desired to be transferred; and

(d) The name and address of the bottler or exporter to whom the stamps are to be transferred.

If the collector of customs has no reason to believe that the transfer would constitute a jeopardy to the revenue, he shall indicate his approval on the copy of the application, return the copy to the importer, and retain the original for filing with the requisition, Form 428. On receipt of the approved copy, the importer shall effect the requested transfer of strip stamps.

Sec. 250.251 Unused red strip stamps.—Unused red strip stamps returned to the importer by the Virgin Islands bottler or exporter shall be submitted to the collector of customs who approved the original requisition, Form 428, for noting of such fact on the requisition and on the Form 1627 covering such stamps on file with the collector. After such notation has been made, the collector of customs shall return the stamps to the importer. If subsequently the importer desires to send all or part of the returned stamps to a bottler or exporter abroad, he shall submit them with Form 1627, properly modified and in duplicate, to the collector of customs who shall note approval on the copy of the modified Form 1627 and return it with the stamps to the importer. The collector of customs shall retain the original Form 1627. The importer shall make appropriate entries on his strip stamp record and in his report, Form 96, of the receipt and disposition of unused stamps covered by this section.

Sec. 250.252 Destruction of red strip stamps.—When for any reason a Virgin Islands bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for shipment to the United States, and it is impractical to return such stamps to the importer from whom they were received, the collector of customs who approved the requisition, Form 428, may, on application, in triplicate, by the importer, authorize the destruction of the stamps in the Virgin Islands. The application shall show the size, quantity, and serial numbers of the stamps, the name and address of the Virgin Islands bottler or exporter who has possession of the stamps, and the reasons why destruction in the Virgin Islands is requested. If the collector of customs approves the application for destruction he will return the original and one copy of the application to the importer who will forward both to the Virgin Islands bottler or exporter. On receipt of the approved application, the stamps may be destroyed provided such destruction is under the supervision of an authorized representative of the Governor of the Virgin Islands (including an officer of the Board of Control of Alcoholic Beverages) and such representative certifies to the destruction of the stamps on the approved application. After destruction, the original of the application bearing the required certificate of destruction will be returned, through the Virgin Islands bottler or exporter and the importer, to the collector of customs. The collector of customs will credit the Form 428 accordingly, stamp on the copy of the application "strip stamps credited", and send the copy to the importer who filed the application. Such importer may then take credit for the stamps on his strip stamp record. Red strip stamps affixed to (a) imported distilled spirits prior to arrival in the United States which spirits are diverted by the importer for exportation purposes, and (b) spirits withdrawn from customs custody free of tax for entry into the United States shall be effectively destroyed under customs supervision, prior to exportation or withdrawal for entry into the United States.

Sec. 250.253 Credit for red strip stamps affixed to containers returned to a bottler or exporter in the Virgin Islands.—When for any reason containers of distilled spirits bearing red strip stamps are returned from customs custody to the Virgin Islands bottler or exporter, the importer may be given credit for such stamps, provided he obtains an affidavit from an authorized representative of the Governor of the Virgin Islands (including an officer of the Board of Control of Alcoholic Beverages) to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such affidavit to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record.

Sec. 250.254 Credit for red strip stamps affixed to containers diverted by the importer for exportation.—The importer may be given credit for red strip stamps which were affixed to distilled spirits, brought into the United States from the Virgin Islands, diverted by the importer for exportation purposes and which were effectively destroyed by the exporter under customs supervision, provided he obtains a certificate from the customs officer to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such certificate to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record.

Red Strip Stamps to be Affixed at Port of Entry under Customs Supervision

Sec. 250.255 Conditions.—Distilled spirits in containers coming into the United States from the Virgin Islands without having red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer. Stamps procured for such containers but not affixed within 48 hours after entry shall be placed in the custody of the collector of customs until such time as they are to be affixed to containers prior to removal from customs custody.

Sec. 250.256 Requisition, Form 428.—Requisition for red strip stamps shall be made by the original importer, or his duly authorized agent: *Provided,* That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with sec. 250.237. Approval of the requisition shall be subject to the provisions of sec. 250.240.

Sec. 250.257 Procurement and overprinting of red strip stamps.—The importer, or his duly authorized agent, shall procure red strip stamps from the district director of internal revenue as provided by sec. 250.241, have them overprinted and such overprinting verified under the provisions of sec. 250.242, and such verification endorsed on Form 428. After verification of the overprinting and the prescribed endorsement on Form 428, the collector of customs will deliver the stamps to their procurer for affixing to containers under customs supervision.

Sec. 250.258 Expense of affixing red strip stamps.—Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps to the containers shall be borne by the importer, or by the person having title to the distilled spirits, as the case may be.

Sec. 250.259 Marking of cases.—There shall be indelibly stamped upon each case by the customs officer supervising the affixing of red strip stamps to containers the following legend:

Port of ________________________
__________________, 19____
(Month) (Day)

This is to certify that on this date the red strip stamps required by section 5205, I.R.C., were affixed, under my supervision, to the __________, ______, containers of distilled spirits
(Number) (Size)
in this case.

____
(Name)

____
(Official designation)

Subpart M—Procedure at Port of Entry from the Virgin Islands

Sec. 250.260 Conditions.—The importer shall file the report of gauge provided for in sec. 250.204 and the certificate provided for in sec. 250.205 with the collector of customs at the port of entry in the United States.

Sec. 250.261 Action by collector of customs.—The collector of customs will direct the proper customs gauger to determine the taxable quantity of liquors contained in the consignment by regauge or inspection and report the result thereof to the collector of customs. Upon receipt of such report the collector of customs will refer to the approved formula covering the product to determine the rate of internal revenue tax applicable thereto. When the rate of tax applicable to the product has been ascertained, the tax due on the consignment will be determined according to secs. 250.262 through 250.265.

Sec. 250.262 Determination of tax on distilled spirits.—If the certificate is accompanied by a report of gauge made by an insular gauger in accordance with Sec. 250.204 and bears the insular gauger's certification, as prescribed in Sec. 250.205, showing that the spirits covered thereby were 100 degrees or more in proof at the time of withdrawal from the insular bonded warehouse, the internal revenue tax at the distilled spirits rate will be collected on the proof-gallon contents of the packages, or cases, regardless of the proof of the spirits at the time of their entry into the United States. If the certification of the insular gauger and the accompanying report of gauge show that the spirits were less than 100 degrees in proof at the time of withdrawal thereof from the insular bonded warehouse, the internal revenue tax at the distilled spirits rate will be collected on the wine-gallon contents of the packages or cases as determined by the customs gauger. If the certificate does not bear the certification of the insular gauger and is not accompanied by a report of gauge made by an insular gauger showing the proof of the spirits at the time of their withdrawal from the insular bonded warehouse, the proof of the spirits at the time of regauge or inspection at the port of entry in the United States will be the basis for determining the internal revenue tax due thereon, i.e., if the spirits are less than 100 degrees in proof, the distilled spirits tax will be collected on the wine gallons, whereas if the spirits are 100 degrees or more in proof, the distilled spirits tax will be collected on the proof gallons. The rectification tax on taxable rectified spirits will be collected on the proof gallons contained in the consignment regardless of the proof of the spirits at the time of their withdrawal from the insular bonded warehouse or at the time of their entry into the United States.

Sec. 250.263 Determination of tax on beer.—If the certificate prescribed in Sec. 250.205 covers beer, the beer tax will be collected on the basis of the number of barrels of 31 gallons each, or fractional parts thereof, contained in the shipment.

Sec. 250.264 Determination of tax on wine.—If the certificate prescribed in Sec. 250.205 covers wine, the wine tax will be collected at the rates imposed by section 5041, Internal Revenue Code, as amended.

Sec. 250.265 Determination of tax on articles.—Where articles contain liquors, the tax will be collected at the rates prescribed by law on the liquor contained therein as shown by the certificate prescribed in Sec. 250.205.

Sec. 250.266 Taxpayment.—The internal revenue tax on liquors and articles coming into the United States from the Virgin Islands shall be paid to the collector of customs at the port of entry, as provided by customs regulations. (19 CFR Ch. I)

Subpart N-Records and Reports of Liquors from the Virgin Islands

Record and Report of Red Strip Stamps

Sec. 250.271 Report of strip stamps, Form 96.—Every importer shall prepare on Form 96, in triplicate, an annual report of all strip stamps procured, used, lost, mutilated, destroyed, or otherwise disposed of during each fiscal year (July 1 through June 30, following), a report of the balances on hand at the beginning and end of the fiscal year, and an accounting for any balances outstanding against each requisition at the end of the fiscal year. Where an importer has more than one place of business, a separate report on Form 96 shall be rendered for each place of business. Where an agent procures stamps for several importers, he shall render a separate report on Form 96 in the name of each importer. An original and one copy of Form 96 shall be filed on or before July 10 with the collector of customs who approved the importer's requisitions on Form 428: *Provided*, That where the collector of customs finds it necessary, in order to reconcile his accounts with those of the importer, he may require the importer, in addition to the annual report on Form 96, to file Form 96 at more frequent intervals, but not more often than once a month, completed in whole or in part, as the collector may designate. Such additional reports on Form 96 shall be prepared in duplicate and the original shall be filed with the collector of customs at the time designated by such collector. The importer shall keep one copy of Form 96 for his files. The collector of customs shall, on or before July 20, forward one copy of each annual report on Form 96 to the assistant regional commissioner of the region in which the customs collection district is located.

Report of Disposition of Red Strip Stamps on Discontinuance of Business

Sec. 250.277 Procedure.—The importer who discontinues or sells his business shall recall from his agents in the Virgin Islands all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size, serial numbers, and quantity, to the collector of customs for crediting of the respective Forms 428. The collector of customs shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original and return the copy of the inventory to the importer. Within five days of the receipt of the returned copy of the inventory, the importer shall note the disposition of the stamps on Form 96, mark the report "Final", and submit it, in duplicate, to the collector of customs. The collector of customs shall forward one copy of the final Form 96 to the assistant regional commissioner.

Subpart O-Tax-Free Shipments to the United States from the Virgin Islands

Sec. 250.291 Certificate.—Every person shipping into the United States from the Virgin Islands free of tax, pursuant to Secs. 250.201 and 250.201a, (a) industrial spirits produced and withdrawn in the Virgin Islands in accordance with the provisions of the Virgin Islands regulations relating thereto, (b) distilled spirits produced, warehoused (if applicable), denatured, and withdrawn in the Virgin Islands in accordance with the applicable provisions of the Virgin Islands regulations relating thereto, and (c) products containing such denatured spirits and manufactured in accordance with the provisions of the Virgin Islands regulations relating thereto, shall certify, in the English language, to such fact on the face of the shipper's waybill. Where the product is made pursuant to Form 1479-A, approved as provided in the Virgin Islands regulations, the shipper shall also certify as follows:

Made with ______________ denatured spirits,
(Completely or specially)
Formula No. ________, pursuant to Form 1479-A, approved ________, 19____

Sec. 250.292 Marking containers.—The name, address, and permit number of the manufacturer shall appear on each shipping container of products containing denatured spirits shipped from the Virgin Islands to the United States free of tax.

Sec. 250.293 Arrival in the United States.—When industrial spirits, denatured spirits, and products containing denatured spirits, coming into this country from the Virgin Islands, are covered by shipper's documents bearing the manufacturer's certificate prescribed in Sec. 250.291, the collector of customs will inspect and verify the consignment. If no discrepancies are found, the products may be released free of tax.

EXCERPTS FROM THE REGULATIONS IN 26 CFR PART 251, "IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER".

Subpart D-Tax on Imported Distilled Spirits, Wines, Beer, and Imported Perfumes Containing Distilled Spirits

Sec. 251.40 Distilled spirits.—A tax is imposed by section 5001, I.R.C., on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed in such section on each proof gallon or wine gallon when below 100 degrees of proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

Sec. 251.41 Perfumes containing distilled spirits.—Perfumes imported into the United States containing distilled spirits are subject to the internal revenue tax at the rate prescribed by section 5001, I.R.C., per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

Sec. 251.42 Wines.—All wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in customs bonded warehouse or imported into the United States are subject to an internal revenue tax at the rates prescribed by law; such tax to be determined at the time of removal from customs custody for consumption or sale. The tax is imposed on each wine gallon and at a like rate on fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly.

Sec. 251.43 Liqueurs, cordials, and similar compounds.—A tax is imposed by section 5001, I.R.C., on all liqueurs, cordials, and similar compounds, containing distilled spirits, in customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, or wine gallon when below 100 degrees of proof, and a proportionate tax at a like rate on all fractional parts of such proof gallon or wine gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

Sec. 251.44 Other compounds and preparations.—Compounds and preparations, other than those specified in sec. 251.43 containing distilled spirits, which are fit for beverage purposes, in customs bonded warehouse or imported into the United States are subject to internal revenue tax at the rates applicable to distilled spirits. Compounds and preparations, containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wines.

Sec. 251.45 Rate of tax.—A tax is imposed by section 5051, I.R.C., on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for fractional parts of a barrel. The tax on beer shall be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

Sec. 251.46 Computation of tax.—The tax on imported beer shall be computed on the basis of the actual quantity in a container, at the rate prescribed by law.

Collection of Internal Revenue Taxes

Sec. 251.48 Imported distilled spirits, wines, and beer.—Internal revenue taxes payable on imported distilled spirits, including perfumes containing distilled spirits, and on wines and beer, are collected, accounted for, and deposited as internal revenue collections by collectors of customs in accordance with customs requirements.

Exemption of Certain Samples from Internal Revenue Taxes

Sec. 251.49 Commercial samples of alcoholic beverages.—Samples of distilled spirits, beer, and wine, to be used in the United States by persons importing alcoholic beverages in commercial quantities, are, subject to the limitations in this section, exempt from the payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. In no case shall this exemption apply to more than one sample of each alcoholic beverage product admitted during any calendar quarter for the use of each such person. No sample of beer shall contain more than 8 ounces, no sample of wine shall contain more than 4 ounces, and no sample of distilled spirits shall contain more than 2 ounces.

Packaging, Marking and Stamping of Distilled Spirits

Sec. 251.56 Containers of 1 gallon or less.—Imported containers of distilled spirits of 1 gallon or less, and empty containers imported for the bottling of imported distilled spirits of 1 gallon or less, are required to be marked in accordance with the Customs Regulations (19 CFR Parts 11, 12). Containers of 1 gallon or less of distilled spirits must conform to the requirements of 27 CFR Part 5, and be stamped in accordance with this part. Also, distilled spirits containers of a capacity of one-half pint to 1 gallon, inclusive, must conform to the requirements of 26 CFR Part 175.

Sec. 251.57 Containers in excess of 1 gallon.—Imported containers of distilled spirits in excess of 1 gallon are required to be marked and stamped in accordance with customs regulations (19 CFR Parts 11 and 12).

Labeling of Distilled Spirits

Sec. 251.58 Containers of 1 gallon or less.—Lables on imported containers of distilled spirits, and on containers of imported distilled spirits bottled in customs custody, for sale at retail, are required to be covered by a certificate of label approval (Form 1649) issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (Regulations 5, 27 CFR Part 5). Containers of imported distilled spirits bottled after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval (Form 1649) or a certificate of exemption from label approval (Form 1650) issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (Regulations 5, 27 CFR Part 5). When distilled spirits are to be labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to Part 175 of this subchapter.

Marking and Labeling of Wines and Beer

Sec. 251.59 Wines.—All imported wines containing not less than 7 percent and not more than 24 percent of alcohol by volume are required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations promulgated thereunder (Regulations 4, 27 CFR Part 4), prior to their removal from customs custody. Containers of imported wine bottled or packaged after taxpayment and withdrawal from customs custody are required to be covered by a certificate of label approval (Form 1649) or a certificate of exemption from label approval (Form 1650) issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder (Regulations 4, 27 CFR Part 4). Imported containers of wine are required also to be marked, branded and labeled in accordance with customs regulations (19 CFR Parts 11 and 12).

Sec. 251.60 Beer.—All imported beer is required to be released from customs custody in conformity with the Federal Alcohol Administration Act and regulations thereunder. The attention of all concerned is directed, in this connection, to the provisions of Regulations 7 (27 CFR Part 7) relating to the labeling and advertising of malt beverages, issued under the Federal Alcohol Administration Act. Imported containers of beer are required to be marked and labeled in accordance with customs regulations (19 CFR Parts 11 and 12).

Red Strip Stamps for Containers of Distilled Spirits

Sec. 251.61 Containers of distilled spirits to bear red strip stamps.—No person shall transport, buy, possess, sell, or transfer any imported distilled spirits, unless the immediate container thereof is stamped with a red strip stamp evidencing the determination or payment of all internal revenue taxes thereon. The provisions of this section shall not apply to—

(a) Distilled spirits in bond or in customs custody;

(b) Distilled spirits lawfully withdrawn from bond and not intended for sale or for use in the manufacture or production of any article intended for sale;

(c) Distilled spirits on which no internal revenue tax is required to be paid;

(d) Distilled spirits, lawfully withdrawn from bond, in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto; or

(e) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

Sec. 251.62 Persons authorized to affix red strip stamps.—Red strip stamps shall be affixed to imported containers of distilled spirits as follows: (a) By the bottler or exporter in a foreign country, as prescribed by Subpart F; or (b) by the importer or owner under customs supervision as prescribed by Subpart G. The bottler of distilled spirits imported in bulk shall affix stamps to the containers, as prescribed by Subpart H of this part.

Sec. 251.63 Size of red strip stamps.—Red strip stamps shall be issued in a standard size, serially numbered, for bottles or containers of 1/2 pint capacity or more, and in a small size for bottles or containers of less than 1/2 pint capacity.

Sec. 251.64 Requisition, Form 428.—Requisition for red strip stamps shall be made by the importer, or his duly authorized agent, or by the subsequent purchaser of the distilled spirits, on Form 428, in triplicate. The local address of the importer, or his agent, shall be given on Form 428. At the time the importer presents his first Form 428 for approval, he shall present and file (if he has not already done so) with the collector of customs a certified or photostatic copy of his importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations promulgated thereunder. All Forms 428 shall be submitted to the collector of customs of the district in which the place of business of the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, is located. Collectors of customs shall refuse to approve requisitions, Form 428, submitted by any person or his agent when the collector has knowledge that such person or his agent has, because of failure to account for stamps, been denied approval of a requisition, Form 428, and has not yet accounted for such stamps. All strip stamps issued on Form 428 shall be accounted for, in the manner prescribed in this part, within eighteen months from the date of requisition, or within such additional extension of time as may be granted under Sec. 251.65a.

Sec. 251.64a Power of attorney.—Where an importer gives power of attorney to another person to sign Form 96, Form 428, Form 1627, or Form 1627A, such power of attorney shall be filed with the collector of customs who approves the issuance of the red strip stamps and shall be in such form as is required by Customs Regulations (19 CFR Chapter I). Where any of the above forms are signed by a duly authorized agent, the name of the importer shall be given, followed by the signature of the agent and the words "Attorney in Fact."

Sec. 251.65 Statement, Form 1627.—The importer, or his duly authorized agent, shall submit, with Form 428 for strip stamps to be sent to a foreign country, a statement on Form 1627, executed under the penalties of perjury;

(a) That the stamps are requisitioned for sending abroad and are required to supply existing orders and/or represent a reasonable anticipation of current requirements;

(b) That a complete accounting for such stamps will be made within eighteen months from the date of requisition (or within such additional extension of time as may be granted under sec. 251.65a) in accordance with the provisions of this part;

(c) Either that no Form 428 from the importer or his duly authorized agent is and has been open beyond eighteen months, or, if any Forms 428 are open, specifying those that are open beyond eighteen months; and

(d) That the requisitionist understands that failure to properly account for the strip stamps will be grounds for rejection of subsequent requisitions for red strip stamps.

Sec. 251.65a Extension of time for final accounting of strip stamps.—Where an importer is not able, within the eighteen-month period prescribed in secs. 251.64 and 251.65, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, prior to the expiration of the eighteen-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension, or extensions, not to exceed a total of twelve months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the

Commissioner of Customs, who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in sec. 251.92.

Sec. 251.66 Approval of requisition.—The collector of customs will approve Form 428 if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(2) That the quantity requisitioned is reasonable and necessary for distilled spirits to be imported to supply existing orders and/or anticipated requirements, or to be removed from customs custody, as provided in this part; and

(3) That his records show that all strip stamps which may have been previously issued to the importer have been properly and timely accounted for as provided in this part; and

(b) Has not been informed that the importer or his agent has been denied approval of a requisition at any port and has not accounted for the stamps on account of which such denial was given. When satisfied that Form 428 may be approved, the collector of customs shall signify his approval on all copies of Form 428, retain Form 1627 (if any) and one copy of Form 428, and return the original and remaining copy of Form 428 to the applicant for submission to the proper district director of internal revenue.

Sec. 251.68 Overprinting of red strip stamps.—The importer, or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have indelibly overprinted in plain and legible letters on each of the red strip stamps, at his expense, the name and address of the importer, which shall, for example, be as follows: "John Doe & Co., Baltimore, Md."

An importer holding an importer's permit to do business under one or more trade names shall have the red strip stamps overprinted with his real name and/or one of his approved trade names, consistent with the name of the importer as shown on the labels of the imported spirits to which the red strip stamps are to be applied. He shall submit the stamps to the collector of customs who will verify the overprinting and make an endorsement showing the verification on Form 428, or on the retained original of Form 1627 where such form is submitted: *Provided,* That the collector of customs may so endorse the Form 428 or Form 1627 on presentation of other evidence satisfactory to him that the stamps have been properly overprinted when, in his opinion, physical submission of the stamps is impractical. The collector of customs will then authorize the importer or his duly authorized agent to send the stamps to the bottler or exporter abroad, as provided in Subpart F of this part; or authorize the importer or his duly authorized agent, or the subsequent purchaser of the distilled spirits, as the case may be, to affix the stamps to containers under customs supervision, as prescribed in Subparts G and H of this part.

Sec. 251.69 Affixing strip stamps.—Strip stamps shall be securely affixed to the container with a strong adhesive, and shall be affixed in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons or wrappings on such cartons must bear the words, "This package may be opened for examination by Internal Revenue Officers." Internal revenue and customs officers have the right to open such cartons or wrappings and examine the container. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

Sec. 251.72 Exportation of imported distilled spirits; red strip stamps.—When imported distilled spirits to which red strip stamps were affixed prior to arrival in the United States are diverted for exportation purposes by the importer, the strip stamps shall be effectively destroyed by the importer under customs supervision, prior to exportation: *Provided,* That the collector of customs may authorize the importer to void, rather than destroy, such strip stamps under customs supervision. When voiding of red strip stamps has been authorized, they shall be voided by legibly stamping thereon, with indelible ink and in bold face capital letters no smaller than 10-point type, the word "VOIDED" or the word "CANCELLED." Red strip stamps affixed to distilled spirits originating in the United States, evidencing the tax or indicating compliance with the provisions of chapter 51, I.R.C., shall not be removed at or prior to the time of exportation.

Sec. 251.73 Withdrawal without payment of tax: red strip stamps.—Red strip stamps affixed to imported distilled spirits to be withdrawn from customs custody free of tax for entry into the United States shall be effectively destroyed by the importer, his agent, or the subsequent purchaser, under customs supervision, prior to such tax-free withdrawal.

Exemptions

Sec. 251.74 Exemption from stamping, marking, bottling, and labeling requirements.—The provisions of this part relating to the affixing of red strip stamps, the indicia requirements of containers prescribed by Part 175 of this subchapter, and the labeling of containers as prescribed by regulations promulgated under the Federal Alcohol Administration Act (Regulations 5, 27 CFR Part 5) are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid on or before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in sec. 251.49, imported for any purpose are not exempt from the stamping, marking, bottling, and labeling requirements. Samples of beer and wine brought into the United States pursuant to sec. 251.49 are exempt from the labeling requirements of the Federal Alcohol Administration Act and regulations issued thereunder. Exemptions from the requirement that imported distilled spirits, wines and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR Part 11).

Subpart F—Red Strip Stamps to be Affixed in a Foreign Country

Sec. 251.80 Conditions.—Red strip stamps to be affixed to containers of distilled spirits may, in accordance with the procedure prescribed in this subpart, be procured by importers to be affixed to the containers by the bottler or exporter in a foreign country.

Sec. 251.81 Requisition, Form 428.—The importer, or his duly authorized agent, shall make requisition on Form 428, in accordance with sec. 251.64, and submit a sworn statement on Form 1627, as prescribed by sec. 251.65, for red strip stamps to be sent to the foreign bottler or exporter.

Sec. 251.82 Approval of requisition.—The collector of customs shall approve Form 428 and dispose of Form 428 and Form 1627 in accordance with and subject to the applicable provisions of sec. 251.66.

Sec. 251.83 Procurement and overprinting of red strip stamps.—The importer, or his duly authorized agent, shall procure the red strip stamps from the district director of internal revenue as provided by sec. 251.67 and have them overprinted and verified as provided by sec. 251.68. After verification of the overprinting and the prescribed endorsement on Form 1627, the collector of customs will deliver the stamps to the importer, or his duly authorized agent, for transmission to the bottler or exporter abroad.

Sec. 251.84 Marking of cases.—The foreign bottler or exporter will plainly and legibly mark the following legend on each case of containers of distilled spirits to which red strip stamps are attached:

> The red strip stamps required by section 5205, I.R.C., are affixed to the __________ (Number), ______ (Size) containers of distilled spirits in this case.
>
> ______________________________
> (Name of bottler or exporter)

Sec. 251.85 Endorsement of warehouse and consumption entries.—Upon arrival of the distilled spirits in this country, warehouse entries and consumption entries shall have endorsed thereon by the importer, or his duly authorized agent, the following legend:

> Red strip stamps required by section 5205 I.R.C., were affixed abroad. These stamps were procured by ______________ (Name of importer) requisition Form 428, Importer's No. ______, approved by the Collector of Customs at ______________________ (Port where Form 428 was approved) on ______________________ (Date of approval of Form 428)

Sec. 251.85a Request for credit of red strip stamps on distilled spirits deposited in a foreign-trade zone at specified port.—When red strip stamps are affixed abroad to containers of imported distilled spirits and, on arrival in the United States, the spirits are stored in a foreign-trade zone located at the port specified in the requisition, the importer may obtain credit of the red strip stamps against the appropriate requisition. In such cases, the zone application shall have endorsed thereon, by the importer or his duly authorized agent, the legend required by sec. 251.85. In addition, and as a condition of obtaining approval from the collector of customs for admission of the spirits to the zone, the importer or his duly authorized agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed under customs supervision prior to exportation. The collector of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed as provided in sec. 251.72.

Sec. 251.86 Credit of red strip stamps against requisition on arrival of distilled spirits at specified port.—Where warehouse and consumption entries are filed at the port where the requisition was approved, the collector of customs who approved the requisition will credit the Form 428 described in the endorsement on the entry referred to in sec. 251.85 with the number and size of red strip stamps shown by the usual customs examination to have been attached to the container. When distilled spirits are placed in a foreign-trade zone at the port of requisition and where the zone application conforms with the provisions of sec. 251.85a, the collector of customs shall credit the appropriate strip stamp record with the number and size of red strip stamps shown by the usual customs examination to have been affixed by the containers.

Sec. 251.87 Credit of red strip stamps against requisition on diversion of spirits to other than specified port.—In the event of diversion of all or part of the spirits to a port or ports, or to a foreign-trade zone at a port, other than the port specified in Form 1627 filed with the Form 428, the importer who requisitioned the stamps, or the importer at the port of diversion, or the duly authorized agent of either, shall prepare Form 1627A, in triplicate, for each such diversion. One copy of Form 1627A shall be promptly sent to the collector of customs at the port of requisition, and the original and remaining copy shall be filed with the collector of customs at the port of diversion at the time the warehouse or consumption entry, or zone application, is filed. The corresponding entry or zone application at the port of entry shall be marked with the requisition and diversion numbers, and the name of the port of requisition, as shown on the Form 1627A. The provisions of sec. 251.85a shall, as applicable, cover stamps on spirits diverted to a foreign-trade zone located at a port other than the port specified in Form 1627. Such diverted spirits may not be released from customs custody or admitted into a foreign-trade zone until the required Form 1627A has been filed. The collector of customs at the port of diversion shall certify on both copies of Form 1627A as to the disposition of the spirits and of the stamps shown by the usual customs examination to have been affixed to the containers, and forward the original Form 1627A to the collector of customs at the port of requisition. He shall retain the copy of Form 1627A as a record copy in a separate file. On receipt of Form 1627A from the collector of customs at the port of diversion, the collector of customs at the port of requisition shall enter the appropriate credit on his strip stamp record, stamp "Strip stamps used and credited except as noted" on the copy of Form 1627A originally received by him for such diversion, and send such copy to the importer, or importer's agent, who requisitioned the stamps. Such importer or agent may then take credit for the stamps on his strip stamp record.

Sec. 251.87a Follow-up procedure for Forms 1627A.—When the importer, or importer's agent, who requisitioned the stamps on Form 428 has not, within two months from the date of arrival of the spirits, received from the collector of customs the copy of Form 1627A noted as to credit of strip stamps by the collector, as provided for in sec. 251.87, he shall inquire of the collector of customs who approved the requisition Form 428 whether the required report on Form 1627A has been received from the collector of customs at the port of diversion. If the collector of customs reports the non-receipt of Form 1627A from the collector at the port of diversion, the importer, or the importer's agent, shall make a written inquiry, either directly or through the importer at the port of diversion, of the collector of customs at the port of diversion whether such collector has reported on the diversion. The inquiry shall show the entry number, or identify the zone application, and shall be accompanied by two copies of the original Form 1627A marked "Follow-up: Prepared ________ (Date)." On receipt of the inquiry, the collector of customs of the port of diversion will compare the "Follow-up" copies with his file of record copies of Form 1627A. If he has a record copy showing that he forwarded the original Form 1627A, he shall insert any stamp data on the "Follow-up" copies, return one copy to the party who presented it, and forward the other copy to the collector of customs at the port of requisition. If the collector of customs at the port of diversion finds no corresponding record copy of Form 1627A, he shall use the "Follow-up" copies as original copies. In such case, he shall strike out the words "Follow-up", enter the stamp data thereon, retain one copy as his record copy, and forward the other copy to the collector of customs at the port of requisition. On receipt of the copy by the collector of customs at the port of requisition, the copy will be compared with the records. If the original Form 1627A has been received and the triplicate copy has already been forwarded to the importer, or to the importer's agent, the "Follow-up" copy shall also be sent to him without further action. If the collector of customs at the port of requisition finds that he has not received the original Form 1627A from the port of diversion, he shall use the "Follow-up" copy as the original of Form 1627A, and process it in accordance with sec. 251.87. On receipt of the copy of Form 1627A, the importer, or the importer's agent, may, unless he has already received his copy of Form 1627A, take credit for the stamps on his strip stamp record.

Sec. 251.88 Irregularities or discrepancies in shipments.—In case any irregularities or discrepancies are found, the collector of customs at the port of entry will make demand for redelivery of unexamined packages, and will not release examined or redelivered packages until satisfactory explanation and/or proper corrections have been made.

Sec. 251.88a Transfer of red strip stamps in foreign country.—Where an importer has shipped red strip stamps to a foreign bottler or exporter, to be affixed to containers of distilled spirits to be shipped to the United States, and he desires to transfer all or a part of these stamps to another foreign bottler or exporter, he shall first submit a written application, in duplicate, to the collector of customs who approved the requisition, Form 428. The application shall show: (a) the serial number and date of the requisition, Form 428, covering issuance of the stamps; (b) the name and country of the foreign bottler or exporter holding the stamps; (c) the number and size of the stamps desired to be transferred; and (d) the name and country of the foreign bottler or exporter to whom the stamps are to be transferred. If the collector of customs has no reason to believe that the transfer would constitute a jeopardy to the revenue, he shall indicate his approval on the copy of the application, return the copy to the importer, and retain the original for filing with the requisition, Form 428. On receipt of the approved copy, the importer shall effect the requested transfer of strip stamps.

Sec. 251.89 Unused red strip stamps.—Unused red strip stamps returned to the importer by the bottler or exporter abroad, shall be submitted to the collector of customs who approved the original requisition, Form 428, for noting of such fact on the requisition and on the Form 1627 covering such stamps on file with the collector. After such notation has been made, the collector of customs shall return the stamps to the importer. If subsequently the importer desires to send all or part of the returned stamps to a bottler or exporter abroad, he shall submit them with Form 1627, properly modified and in duplicate, to the collector of customs who shall note approval on the copy of the modified Form 1627 and return it with the stamps to the importer. The collector of customs shall retain the original Form 1627. The importer shall make appropriate entries on his strip stamp record and in his report, Form 96, of the receipt and disposition of unused stamps covered by this section.

Sec. 251.89a Destruction of red strip stamps abroad.—When for any reason a foreign bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for export to the United States, and it is impractical to return such stamps to the importer from whom they were received, the collector of customs who approved the requisition, Form 428, may, on application (in triplicate) by the importer, authorize the destruction of the stamps abroad. The application shall show the size, quantity, and serial numbers of the stamps, the name and address of the foreign bottler or exporter who has possession of the stamps, and the reasons why destruction abroad is requested. If the collector of customs approves the application for destruction he will return the original and one copy of the application to the importer who will forward both to the foreign bottler or exporter abroad. On receipt of the approved application, the stamps may be destroyed provided such destruction is under the supervision of a Foreign Service officer of the United States of America, or of a Treasury Department officer stationed abroad, or of an excise official of the foreign government concerned, and such officer certifies to the destruction of the stamps on the approved application. After destruction, the original of the application bearing the required certificate of destruction will be returned, through the foreign bottler or exporter and the importer, to the collector of customs. The collector of customs will credit the Form 428 accordingly, stamp on the copy of the application "strip stamps credited", and send the copy to the importer who filed the application. Such importer may then take credit for the stamps on Form 96.

Sec. 251.90 Credit for red strip stamps affixed to containers returned to a foreign bottler or exporter.—When for any reason containers of distilled spirits bearing red strip stamps are returned from customs custody to the foreign bottler or exporter, the importer may be given credit for such stamps, provided he obtains an affidavit from an excise official of the foreign government concerned to the effect that the stamps were removed from the containers and destroyed under his supervision. The importer shall submit such affidavit to the collector of customs who shall credit the original requisition accordingly. The importer shall make appropriate entries on his strip stamp record.

Sec. 251.91 Credit for red strip stamps affixed to containers diverted by the importer for exportation.—When red strip stamps are destroyed or voided under the provisions of sec. 251.72, the importer may be given credit for such stamps if he obtains from the supervising customs officer a certificate regarding the destruction or voiding and submits the certificate to the collector of customs. The collector of customs shall, on receipt of the certificate, credit the original application for the stamps and the importer shall make appropriate entries on his strip stamp record.

Sec. 251.92 Breach of regulations, or failure to properly account for strip stamps.—Where an importer fails to render a proper accounting for strip stamps as prescribed in this part, or where the collector of customs is not able to reconcile his records with those of the importer and is not satisfied with the accounting as rendered by the importer, or where there has been any breach of the provisions of this part by the importer, or use of stamps for a purpose other than that for which they were procured, the collector of customs shall refuse to approve any further requisition, Form 428, submitted by the importer. The collector of customs may also require of the importer an immediate accounting of all strip stamps outstanding in the name of the importer. Such accounting shall be made at a time and place to be specified by the collector of customs, and shall be of such a nature as to satisfy the collector of customs that there has been no unlawful diversion or use of said stamps. If deemed necessary, the collector of customs may require the importer to call in all unused strip stamps, wherever they may be, and deliver them so that they may be counted. Where the collector of customs has evidence that any of the provisions of this part have been wilfully violated, he shall refer the matter to the Director for appropriate action.

Subpart G—Red Strip Stamps Affixed Under Customs Supervision

Sec. 251.110 Conditions.—Distilled spirits in containers imported without having red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer. Stamps procured for such containers but not affixed within 48 hours after entry shall be placed in the custody of the collector of customs until such time as they are to be affixed to containers prior to removal from customs custody.

Sec. 251.111 Requisition, Form 428.—Requisition for red strip stamps shall be made by the original importer or his duly authorized agent: *Provided*, That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with sec. 251.64. Subsequent procedure shall conform to applicable provisions of secs. 251.66, 251.67, and 251.68.

Sec. 251.112 Expense of affixing red strip stamps.—Expenses of cartage, storage, repacking, handling, or other labor connected with the opening of cases and affixing of red strip stamps to the containers, shall be borne by the importer, or by the subsequent purchaser of the distilled spirits referred to in sec. 251.111, as the case may be.

Sec. 251.113 Marking of cases.—There shall be indelibly stamped upon each case by the customs officer supervising the affixing of red strip stamps to containers, the following legend:

Port of ____________ 19____ This is to certify
(Month) (Day)
that on this date, the red strip stamps required by section 5205, I.R.C., were affixed, under my supervision, to the ______,
(Number)
______ containers of distilled spirits in this case.
(Size)

____
(Name)

____
(Official designation)

Subpart H—Importation of Distilled Spirits in Bulk

Sec. 251.120 Persons authorized to receive distilled spirits imported in bulk.—Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act (49 Stat. 985, as amended; 27 U.S.C.,

206) and Regulations 3 (27 CFR Part 3). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by secs. 251.133 and 251.134.

Sec. 251.121 Containers.—Imported distilled spirits may be bottled in either domestic or imported containers conforming to the provisions of Part 175 of this subchapter.

Sec. 251.122 Red strip stamps.—Red strip stamps overprinted with the name and address of the original importer as prescribed by sec. 251.68 or stamps without any overprinting prescribed for domestic use (Part 230 of this subchapter), may be affixed to containers of imported distilled spirits bottled in a class 8 customs bonded warehouse. Stamps without any overprinting prescribed for domestic use (Part 230 of this subchapter) shall be affixed by the bottler to containers of imported distilled spirits bottled after withdrawal from customs custody.

Subpart K—Disposition of Red Strip Stamps

Sec. 251.160 Disposition of strip stamps.—The importer who discontinues or sells his business shall recall from his agents abroad all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size, serial numbers and quantity, to the collector of customs for crediting of the respective Forms 428. The collector of customs shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original of the inventory and return the copy to the importer. Within five days of the receipt of the returned copy of the inventory, the importer shall note the disposition of the stamps on Form 96, mark the report "Final", and submit it, in duplicate, to the collector of customs. The collector of customs shall forward one copy of the final Form 96 to the assistant regional commissioner.

Subpart L—Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

Sec. 251.171 General provisions.—Imported distilled spirits, other than whisky, brandy, rum, or similar beverage spirits, of 185 degrees or more of proof may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred to the bonded premises of his plant for nonbeverage use, without payment of the internal revenue tax imposed on imported spirits by section 5001, I.R.C. Spirits of any proof, imported for any purpose incident to the requirements of national defense, may also be withdrawn from customs custody and be transferred to the bonded premises of a distilled spirits plant without payment of such tax. Spirits so withdrawn and transferred to a distilled spirits plant may be redistilled or denatured and may, without redistillation or denaturation, be withdrawn from internal revenue bond for any purpose authorized by chapter 51, Internal Revenue Code, in the same manner as domestic distilled spirits. Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of Part 201 of this chapter.

Sec. 251.172 Application, Form 2609.—The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in sec. 251.171, shall, for each withdrawal, submit an application on Form 2609, in triplicate, to the internal revenue officer in charge. The application shall appropriately identify the distilled spirits to be withdrawn, and shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the distilled spirits are to be withdrawn, and by inserting in the "Remarks" item the name and address of the assistant regional commissioner for the region in which is located the plant to which the spirits are to be transferred. The internal revenue officer shall, if the proprietor's bond on Form 2601 is sufficient, approve all copies of Form 2609, forward one copy to the assistant regional commissioner, and return the original and remaining copy to the proprietor. The proprietor shall forward the original of Form 2609 to the collector of customs at the port of entry named therein from whose custody it is proposed to withdraw the distilled spirits, and retain the remaining copy for his files.

Sec. 251.173 Customs gauge and release.—The collector of customs will not release distilled spirits without payment of internal revenue tax until the approved Form 2609 has been received from the proprietor of the distilled spirits plant. Prior to release from customs custody, the customs officer shall prepare Form 236 (in quadruplicate, when the spirits are in packages; in quintuplicate, when the spirits are in bulk) appropriately modified to show:

(a) Serial number and date of the Form 2609,
(b) Customs port of entry,
(c) The consignee,
(d) Kind of spirits,
(e) Country from which spirits were exported,
(f) Method of transfer,
(g) Elements of bulk gauge (if any),
(h) Quantity to be transferred,
(i) Customs seals used (if any),
(j) Date of release, and
(k) Signature and title of the customs officer in lieu of the proprietor.

When shipments are made in tank cars or tank trucks, the details of the gauge of each tank car or tank truck shall be reported separately. In the case of barrels, drums, or similar portable containers, the details of the gauge shall be shown on Form 2630, in triplicate. In addition, the customs officer shall ascertain and enter on each copy of Form 236 the rate of customs duty paid on the distilled spirits and the rate of customs duty which would have been applicable had such spirits been imported for beverage purposes. On compliance with the requirements of customs regulations (including determination of duties due), and on completion of Form 236 (and Form 2630, where required), the customs officer shall release the spirits for transfer, retain one copy of Form 236 (and Form 2630, if any), forward one copy of Form 236 to the assistant regional commissioner (alcohol and tobacco tax) at the address shown on Form 2609, and forward the original and remaining copy (or copies) of Form 236 (and Form 2630, if any) to the internal revenue officer at the distilled spirits plant.

Sec. 251.174 Tank cars and tank trucks to be sealed.—Where a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

Sec. 251.175 Transfer by pipeline at dock.—Where the distilled spirits plant is equipped with suitable dock facilities, the distilled spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant, or directly into locked storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets thereof are locked. In all such cases of pipeline transfers, the distilled spirits shall be transferred under customs supervision, gauged immediately by a customs officer, and thereupon released for deposit in the distilled spirits plant. The details of the gauge shall be reported on Form 236, and distribution of the form made, as provided in sec. 251.173.

Subpart M—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

Sec. 251.181 General.—On filing of proper customs entry, imported distilled spirits may, under the provisions of this subpart, be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes.

Sec. 251.182 Application and permit, Form 1444.—Application on Form 1444, in duplicate, appropriately modified to show the customs port of entry, shall be filed with the Director by the United States or governmental agency thereof for a permit to procure and withdraw imported distilled spirits free of tax for nonbeverage purposes. If it is desired to procure distilled spirits from more than one customs port of entry, a separate application for permit must be filed for each port. Each location to which the distilled spirits are to be shipped shall be shown on the application. The application shall be signed by the head of the department or independent bureau or agency to which such spirits are to be shipped, or by some person duly authorized by such head of a department or independent bureau or agency. Evidence of authority to sign for the head of a department, or independent bureau or agency, shall be furnished the Director. Permits on Form 1444 to procure distilled spirits free of tax from customs custody will not limit the quantity of distilled spirits authorized to be procured, and all such permits shall remain in force until surrendered or canceled. Every appropriate precaution shall be taken by the agency to insure that the tax-free spirits so procured will be used only for governmental purposes.

Sec. 251.183 Use of permit, Form 1444.—On receipt of the permit, Form 1444, from the Director, the department, bureau, or other agency of the United States, in order to procure distilled spirits from customs custody, shall forward the permit to the collector of customs at the port named therein. The collector of customs may retain such permit to cover future withdrawals pursuant to appropriate customs entry in each case.

Sec. 251.184 Customs gauge and release.—Where the appropriate permit, Form 1444, is on file and on receipt of entry for release of distilled spirits, the spirits shall be gauged by a customs officer, who shall prepare a report of gauge on Form 2629, in triplicate. The distilled spirits may then be released free of tax for shipment to the United States or governmental agency thereof named in the permit, Form 1444. The customs officer shall state on each copy of Form 2629 the permit number of Form 1444 under which the distilled spirits were withdrawn. The original of Form 2629 shall be retained by the collector of customs, one copy shall be forwarded to the governmental agency to whom the distilled spirits are consigned, and one copy shall be forwarded to the Director.

Sec. 251.185 Tank cars and tank trucks to be sealed.—When a shipment of distilled spirits from customs custody is made in a tank car or tank truck, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

Sec. 251.186 Receipt on Form 1473.—At the time of shipping distilled spirits free of tax to the United States or governmental agency thereof, the collector of customs shall prepare Form 1473, appropriately modified, forward the original and one copy to the Government officer to whom the distilled spirits are to be delivered at destination, and retain one copy for his files. The Government officer, on receiving the shipment, shall execute the certificate of receipt, forward the original to the Director and retain the copy for his files.

EXCERPTS FROM THE REGULATIONS IN 26 CFR PART 252, "EXPORTATION OF LIQUORS"

Subpart B—Definitions

Sec. 252.11 Meaning of terms.—When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Beer.—Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Distilled spirits or spirits.—That substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including whisky, brandy, rum, gin, vodka, and products of rectification (other than products classed as wine), but not denatured spirits.

Exportation.—A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country. For the purposes of this part, shipments to Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Panama Canal Zone shall be treated as exportations. Shipments to Kingman's Reef, the Midway Islands, or Wake Island are not exportations within the meaning of this part.

Liquor.—Distilled spirits, wines, and/or beer.

Manufacturing bonded warehouse.—A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR Ch. I).

Package.—Any cask, keg, barrel, drum, or similar portable container.

Proprietor.—The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, manufacturing bonded warehouse, or export storage, as the case may be, referred to in this part.

Specially denatured spirits.—Alcohol or rum, as defined in Part 212 of this chapter, denatured pursuant to the formulas authorized in Part 212 for specially denatured alcohol or rum.

Wine.—All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

Subpart C—Miscellaneous Provisions

Withdrawal or Lading for Use on Certain Vessels and Aircraft

Sec. 252.22 Vessels employed in the fisheries.—Liquors may be withdrawn or laden under the provisions of paragraphs (b) and (e) of sec. 252.21 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the liquors to be withdrawn or laden are intended to be removed from the vessel in, or otherwise returned to, the United States. Such withdrawal or lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such liquors for use on such vessels shall be subject to approval by the collector of customs of a special written application by the withdrawer or the vessel's master on customs Form 5125 (in duplicate) and a statement by the withdrawer in his application or notice on the required Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, that the liquors are to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the serial number of the Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, and the date thereof, and shall be returned by the collector of customs to the withdrawer or vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the collector of customs within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the liquors until the collector of customs is satisfied that they have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such liquors remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector of the port or place of arrival shall deem necessary. When such liquors have been accounted for to the satisfaction of the collector of customs, he shall execute his certificate of lading and use on both copies of the Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, and forward the original of the form to the assistant regional commissioner designated thereon. In the event of a failure on the part of the withdrawer or the master of the vessel to comply with the conditions of this section or upon receipt of evidence that the liquors were not lawfully used as supplies on the vessel, the collector of customs shall advise the assistant regional commissioner of all the facts in the case for determination of any liability incurred. In the case of liquors withdrawn without payment of tax, assessment of tax liability found to have been incurred shall be made against the principal on the bond. In the case of taxpaid or tax determined liquors, the assistant regional commissioner shall determine as to whether to make demand upon the principal and the surety on the bond or to disallow the claim as the case may be.

Note: As used in this section, the word "withdrawer" shall mean the person executing the application or notice, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be.

Manufacturing Bonded Warehouses

Sec.252.25 General.—Any manufacturer who manufactures the products designated in section 5522, I.R.C., at a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR Ch. I, may withdraw distilled spirits or wines from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax for use in the manufacture of such products for export, or for rectification and export, or shipment in bond to Puerto Rico. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of secs. 252.63 and 252.64.

Foreign-Trade Zones

Sec. 252.30 Export status.—Liquors may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors of domestic manufacture deposited in a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder. Export status is not acquired until application on Zone Form D for admission of the liquors into the zone has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certification of deposit of the liquors in the zone has been made on the Internal Revenue Service form prescribed in this part. For the purpose of section 309 of the Tariff Act of 1930, as amended by section 11 of the Customs Simplification Act of 1953 (Pub. Law 243, 83d Congress), liquors removed to foreign-trade zones under the provisions of this part may be removed, pursuant to the provisions of 19 CFR Ch. I, for use as supplies on vessels and aircraft.

Voluntary Destruction of Liquors after Receipt in a Foreign-Trade Zone

Sec. 252.35 General.—Liquors may not, under the law, be transferred to a foreign-trade zone for the purpose of destruction. However, liquors transported to and deposited in a foreign-trade zone for exportation or for storage pending exportation may be destroyed under the supervision of the collector of customs, where it is shown to the satisfaction of the assistant regional commissioner of the region in which the zone is located that the liquors, after deposit in a zone, have become unmerchantable or unfit for export.

Sec. 252.36 Application.—Application, addressed to the assistant regional commissioner of the region in which the zone is located and filed as hereinafter provided, for authority to destroy domestic distilled spirits (including alcohol), wines, or beer on storage in a foreign-trade zone shall be made by the exporter on letter-size paper, in duplicate, showing the name and address of the claimant and setting forth the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the zone in which the liquor is stored;

(b) The name and address of the producer of the liquor, and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors were withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date, form, and serial number of the Form 206, 1582, 1582-A, 1582-B, 1629, or 1689, as the case may be; and, in the case of liquors on which drawback of internal revenue tax has been allowed, the claim number assigned thereto by the assistant regional commissioner;

(d) Whether the liquor has become unmerchantable or unfit for export after deposit in the zone, together with all the known facts relating thereto; and

(e) Whether the unmerchantable or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application shall show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor, and to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction.

Such application shall be signed by the exporter or his authorized agent and be executed under the penalties of perjury. The assistant regional commissioner may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the collector of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR Ch. I). On receipt of the application the collector of customs shall determine the completeness thereof and shall report any facts relating to the condition of the liquor of which he may have knowledge. The original application shall be forwarded to the assistant regional commissioner and the collector of customs shall retain the copy for his files.

Sec. 252.37 Action by assistant regional commissioner.—The assistant regional commissioner shall carefully examine the application to see that all the required information has been furnished and shall cause such investigation to be made or require such additional evidence, including samples, to be submitted as he may deem necessary. If the assistant regional commissioner finds that the domestic distilled spirits (including alcohol), wines, or beer were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that such liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the collector of customs. On approval or disapproval of the application, the assistant regional commissioner shall advise the collector of customs of his action.

Sec. 252.38 Action by collector of customs.—On receipt of the assistant regional commissioner's authorization for destruction of the liquor, or his disapproval of the application for destruction, the collector of customs shall act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR Ch. I). Where the assistant regional commissioner has authorized the destruction of the liquor, such destruction shall be accomplished under customs supervision.

Subpart E—Withdrawal of Distilled Spirits Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

Return of Spirits to Bonded Premises

Sec. 252.115 General.—On application of the proprietor of a distilled spirits plant, spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, or for deposit in a manufacturing bonded warehouse, or for use on vessels and aircraft may, for good cause, be returned:

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided*, That such spirits are returned before they are exported, deposited in a foreign-trade zone, deposited in a manufacturing bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

Sec. 252.116 Application for return of spirits withdrawn without payment of tax.—Where a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in sec. 252.115, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the distilled spirits plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Serial number of the Form 206 and the date withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of the bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

Sec. 252.117 Responsibility for return of spirits.—The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant authorized to receive them. In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in sec. 252.115. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the spirits are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the spirits are eligible for return under sec. 252.115, accept the approved application as authority for the return of the spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Form 206, return both sets to such principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206 with attachments, shall be delivered by such principal or his agent to the internal revenue officer at the distilled spirits plant. When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

Subpart F—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

Return of Wines to Bonded Wine Cellar

Sec. 252.130 General.—On application of the proprietor of a bonded wine cellar, wines which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for use on vessels and aircraft, or for deposit in a foreign-trade zone, or for deposit in a manufacturing bonded warehouse may, for good cause, be returned to the bonded wine cellar from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided,* That such wines are returned before they are exported, laden as supplies upon or used on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be.

Sec. 252.131 Application for return of wines withdrawn without payment of tax.—Where a proprietor of a bonded wine cellar desires to return wines to his bonded wine cellar as provided in sec. 252.130, he shall submit a written application, in duplicate, to the assistant regional commissioner for the region in which his premises are located, for approval of the return of the wines. The application shall show:

(a) Name, address, and registry number of the bonded wine cellar.

(b) Name and address of the principal on the bond under which the wines were withdrawn.

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of wines to be returned.

(e) Kind of wines to be returned.

(f) Number, kind, and serial numbers of the containers to be returned. In the case of bottled wines, the number and size of the bottles in each case.

(g) Total quantity in wine gallons for each separate tax class of wines to be returned.

(h) Reason for return of the wines.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall return both copies to the proprietor, who, in turn, shall deliver them to the exporter.

Sec. 252.132 Responsibility for return of wine.—The principal on the bond under which the wines were withdrawn without payment of tax shall be responsible for arranging the return of the wines to the bonded wine cellar from which they were withdrawn. In case of emergency, the principal on the bond may arrange the return of wines to bonded premises without an approved application, but such wines shall be kept separate at the bonded premises and shall not be recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in sec. 252.131. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the wines are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the wines are eligible for return under sec. 252.130, accept the approved application as authority for the return of the wines to the bonded wine cellar noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each of the canceled Forms 206, return both Forms 206 to the principal, and, where the wines are in his custody, release them for return. The canceled Forms 206, with attachments, shall be delivered by such principal or his agent to the proprietor of the bonded wine cellar. When wines have been returned before the Forms 206 were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the proprietor of the bonded wine cellar who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

Subpart G—Removal of Beer Without Payment of Tax for Exportation, Use as Supplies on Vessels and Aircraft, or Transfers to a Foreign-Trade Zone

Sec. 252.146 Return of beer.—Beer removed without payment of tax under the provisions of this subpart may be returned to the brewery from which removed if lading of the beer is delayed more than the period provided in sec. 252.262 or where the brewer has other good cause for such return. The brewer shall request the collector of customs to release the beer for return to the brewery and, on such release, the collector of customs shall endorse both copies of the appropriate Form 1689 to show his release of the beer, and return the forms to the brewer. On return of the beer to the brewery, the brewer shall record the quantity in his daily records, mark the two copies of Form 1689 returned by the collector of customs, "Canceled—returned to brewery", and forward one copy to the assistant regional commissioner. The total quantity of beer involved in all export shipments returned during any calendar month shall be reported as a special entry on Form 103.

Subpart Ga—Removal Without Payment of Tax for Exportation or Transfer to a Foreign-Trade Zone of Concentrate Produced From Beer

Sec. 252.150a General.—Concentrate, produced from beer by the removal of water therefrom under the provisions of Subpart BB of Part 245 of this chapter, may, subject to this subpart, be removed from the brewery without payment of tax, for:

(a) Export to a foreign country; or

(b) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such removals shall be made by the brewer under the provisions of his bond, Form 1566, as extended by consent of surety under the provisions of sec. 245.240 or sec. 245.241.

Sec. 252.150b Notice, Form 3021.—(a) Whenever a brewer intends to remove concentrate without payment of tax from the brewery for exportation from the United States or for transportation to and deposit in a foreign-trade zone, he shall prepare a notice for each such removal on Form 3021, in quadruplicate.

(b) The brewer shall execute on each copy of Form 3021 his agreement to pay on demand from the assistant regional commissioner, an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the concentrate removed for the stated purpose and for which proper evidence of exportation or transfer to a foreign-trade zone, as the case may be, has not been furnished as prescribed by this part.

Sec. 252.150c Containers.—Concentrate may not be removed for export, or for transfer to and deposit in a foreign-trade zone, in containers of the kind ordinarily used by brewers for the removal of beer for consumption or sale.

Sec. 252.150d Procedures applicable to concentrate removed without payment of tax.—The provisions of §§ 252.30, 252.35 to 252.38, 252.241, 252.245 to 252.247, 252.250 to 252.253, and 252.262 are applicable to concentrate removed under this subpart for exportation or for transfer to and deposit in a foreign-trade zone to the same extent that such provisions are applicable to beer removed for such purposes.

Sec. 252.150e Marks and brands.—In addition to the marks and brands prescribed in Part 245 of this chapter, each container of concentrate to be removed without payment of tax under this subpart shall be marked as specified below:

(a) "Beer Concentrate For Export—Without Payment of Tax", where the concentrate is to be removed for export from the United States; or

(b) "Beer Concentrate For Export—Without Payment of Tax Via FTZ No." followed by the number of the zone—where the concentrate is removed for deposit in a foreign-trade zone.

All such markings shall be placed on the containers in the same manner as is prescribed by the regulations in Part 245 of this chapter for the affixing of the original marks.

Sec. 252.150f Disposition of forms.—On removal of concentrate from the brewery under this subpart, the brewer shall forward one copy of Form 3021 to the assistant regional commissioner, retain one copy in his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned.

Sec. 252.150g Return of concentrate.—Concentrate removed without payment of tax under this subpart may be returned to the brewery from which removed if lading of the concentrate is delayed for more than the period provided in section 252.262 or where the brewer has other good cause for such return. The brewer shall request the collector of customs to release the concentrate for return to the brewery and, on such release, the collector of customs shall endorse both copies of the appropriate Form 3021 to show his release of the concentrate to the brewery, the brewer shall record the quantity in his daily records, mark the two copies of Form 3021 returned by the collector of customs, "Canceled—Returned to Brewery", and forward one copy to the assistant regional commissioner.

Sec. 252.150h Brewer's report.—The brewer's records shall reflect the quantity of concentrate removed without payment of tax or returned to the brewery under this subpart, and he shall report the quantity of concentrate so removed or returned on Form 103, in accordance with the provisions of Subpart BB of Part 245 of this chapter.

Sec. 252.150i Processing of Form 3021.—The processing of Form 3021 by customs officers shall be in accordance with the procedures prescribed in sections 252.261, 252.264 to 252.267, 252.269 (a) and (c), and 252.290, as the case may be, for the processing of forms prescribed for use for the exportation of beer.

Sec. 252.150j Charges and credits on bond.—The removal of concentrate from the brewery without payment of tax under this subpart shall constitute a charge against the brewer's bond, Form 1566, of an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the concentrate which is removed. Conversely, the satisfactory accounting for concentrate so removed shall constitute a credit to the bond.

Sec. 252.150k Loss of concentrate in transit.—When the certifying officer's report on Form 3021 discloses that there has been a loss of concentrate after removal from the brewery and while in transit to the port of export or to the foreign-trade zone, and that such loss was a normal one caused by casualty, leakage, or spillage, the assistant regional commissioner will allow the loss. Where the report discloses that the loss is large or unusual, the assistant regional commissioner shall conduct an investigation of the loss and, if he finds that it occurred by reason of casualty, leakage, or spillage, credit for the loss will be allowed. Where the investigation discloses evidence indicating that the loss in transit resulted from theft or from fraud, the assistant regional commissioner will afford the brewer opportunity to submit a written explanation with respect to the causes of such loss before taking further action. The assistant regional commissioner shall make demand on the brewer for an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on all beer used to produce the quantity of concentrate which is not satisfactorily accounted for.

Subpart H—Withdrawal of Specially Denatured Spirits, Free of Tax, for Exportation or Transfer to a Foreign-Trade Zone

Return of Specially Denatured Spirits to Bonded Premises

Sec. 252.160 General.—On application of the proprietor of a distilled spirits plant, specially denatured spirits, which have been lawfully withdrawn free of tax under the provisions of this part for exportation, or for deposit in a foreign-trade zone, may be returned—

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises of any distilled spirits plant for storage pending subsequent lawful withdrawal free of tax: *Provided*, That such specially denatured spirits are returned before they are exported, or deposited in a foreign-trade zone, as the case may be.

Where the specially denatured spirits are to be returned to bonded premises for storage, without redistillation, the proprietor shall also execute a consent of surety on Form 1533 to extend the terms of his bond, Form 2601, to cover the return and storage of such specially denatured spirits.

Sec. 252.161 Application for return of specially denatured spirits.—Where a proprietor of a distilled spirits plant desires to return specially denatured spirits to his plant as provided in sec. 252.160, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the specially denatured spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant from which the specially denatured spirits were withdrawn.

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of specially denatured spirits to be returned.

(e) Description of the specially denatred spirits—kind, serial numbers of containers, and quantity in wine gallons.

(f) Reason for return of the specially denatured spirits.

(g) Disposition to be made of returned specially denatured spirits, i.e., redistillation or return to bonded premises for storage.

The application shall be executed under the penalties of perjury. On approval of the application, the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

Sec. 252.162 Responsibility for return of specially denatured spirits.—The principal on the bond under which the specially denatured spirits were withdrawn free of tax shall be responsible for arranging the return of such spirits to the distilled spirits plants authorized to receive them. In case of emergency, the principal on the bond may arrange the return of the specially denatured spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged or recorded in the records and reports of the proprietor until an approved application for such return has been obtained. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the specially denatured spirits are returned before the Form 206 has been filed with the customs officials. The customs officer shall, if he finds that the specially denatured spirits are eligible for return under sec. 252.160, accept the approved application as authority for the return of the specially denatured spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Forms 206, return both sets to the principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206, with attachments, shall be delivered by the principal or his agent to the internal revenue officer at the distilled spirits plant. When specially denatured spirits have been returned before the Form 206 was filed with customs officials, the two copies of the approved application together with the two sets of Form 206 shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

Subpart I—Exportation of Distilled Spirits Bottled or Packaged, or Restamped and Marked, Especially for Export With Benefit of Drawback

Evidence of Tax Payment of Imported Spirits and Wines

Sec. 252.175 Customs certification on Form 1583.—Where distilled spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits or wines, the collector of customs at the port where the entry or withdrawal for consumption was made shall, on application in writing by the rectifier, execute a certificate on Form 1583, in triplicate, showing that the internal revenue tax has been collected on the imported spirits or wines described in the application. The collector will forward the original of Form 1583 to the assistant regional commissioner designated in the application, forward one copy to the rectifier, and retain one copy for his files.

Sec. 252.176 Application for certificate.—The rectifier shall set forth in his application for the issuance of the certificate, Form 1583, the address of the assistant regional commissioner to whom the form is to be sent, together with sufficient information to enable the collector of customs to identify the importation, such as:

(a) The port of entry,
(b) The entry number,
(c) The name of the importing vessel or other carrier,
(d) The date of importation,
(e) The name of the importer,
(f) The marks and numbers of packages, and
(g) A description of the spirits or wines.

Subpart J—Exportation, With Benefit of Drawback, of Distilled Spirits in Casks or Packages Filled in Internal Revenue Bond

Sec. 252.201 General.—On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less than 20 wine gallons each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

Sec. 252.202 Application, Form 1629.—Any person desiring to claim drawback under the provisions of sec. 252.201, shall make application on Form 1629, in triplicate. Where the spirits are to be exported, all copies of the form shall be presented to the collector of customs for the port from which the exportation is to be made in sufficient time for inspection, gauge, and supervision of lading to be made by customs officers. Where the spirits are to be deposited in a foreign-trade zone for exportation or for storage pending exportation, all copies of the form shall be presented to the customs officer in charge of the zone.

Sec. 252.203 Customs procedure.—(a) *At port of export.*—On receipt of Form 1629, the collector of customs shall deliver all copies to a customs officer. The customs officer shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed," and permit the lading of the packages aboard the exporting conveyance. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and return the original and remaining copy of each form to the collector of customs. On clearance of the exporting conveyance, the collector of customs shall execute his certificate on both copies of Form 1629, forward the originals of Form 1629 and 696 to the assistant regional commissioner of the region in which the exporter is located and retain the remaining copy of each form for his files.

(b) *At foreign-trade zone.*—On receipt of Form 1629, the customs officer in charge of the foreign-trade zone shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed—Via F.T.Z. No." followed by the number of the zone. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and forward the originals of Form 1629 and Form 696 to the assistant regional commissioner of the region in which the exporter is located, and shall retain one copy of each form for his own record.

Subpart M—Shipment or Delivery for Export

Consignment

Sec. 252.241 Shipment for export, or for use on vessels.—All liquors and specially denatured spirits intended for export or liquors intended for use as supplies on vessels shall be consigned to the collector of customs at the port of exportation, or port of lading for supplies on vessels, except that when the shipment is for export to a contiguous foreign territory it shall be consigned to the foreign consignee at destination in care of the collector of customs or deputy collector of customs at the port of export.

Sec. 252.242 Shipment for use on aircraft.—(a) *Distilled spirits and wine.*—All distilled spirits and wines intended for use on aircraft shall be consigned to the airline at the airport from which the aircraft will depart in international travel, in care of the collector of customs. On receipt of the distilled spirits or wines they shall be stored at the airport under customs custody until laden on aircraft.

(b) *Beer.* Beer intended for use on aircraft shall be consigned to the collector of customs at the port of lading.

Sec. 252.244 Shipment to manufacturing bonded warehouse.—Distilled spirits and wines withdrawn for shipment to a manufacturing bonded warehouse shall be consigned to the proprietor of such warehouse in care of the customs officer in charge of the warehouse.

Sec. 252.245 Shipment to foreign-trade zone.—Where distilled spirits (including specially denatured spirits), wines, or beer, are transferred to a foreign-trade zone for exportation or for storage pending exportation, the shipment shall be consigned to the Zone Operator in care of the customs officer in charge of the zone.

Sec. 252.247 Change in consignee.—Where a change of consignee is desired after the liquors (including specially denatured spirits) have been removed from the shipping premises, the exporter shall notify the appropriate officer to whom the shipment is required by secs. 252.241-252.245 to be consigned or in whose care it is required to be shipped, and forward a copy of such notification to the appropriate assistant regional commissioner. Such notice shall identify the withdrawal or claim form, as the case may be, covering the shipment.

Subpart N—Proceedings at Ports of Export

Sec. 252.261 Notice to collector of customs.—On arrival at the port of exportation, of distilled spirits (including specially denatured spirits), wines, or beer, withdrawn or shipped for exportation or for use on vessels or aircraft, the exporter or his agent shall immediately notify the collector of the port. At the same time, or prior thereto, the exporter or his agent shall file with the collector two copies of the application, claim, or notice, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, covering the shipment: *Provided,* That where the shipment is for direct exportation, such forms shall be filed at least six hours prior to lading.

Sec. 252.262 Delay in lading at port.—If, on arrival of a shipment withdrawn for export without payment of tax or free of tax, the exporting vessel is not prepared to receive the shipment, the collector of customs may permit such shipment to remain in possession of a carrier for period not exceeding 30 days. Storage elsewhere for a like cause, and not exceeding the same period, may be approved by the collector of customs. In the event of further delay, the facts shall be reported to the assistant regional commissioner of the region from which the shipment was made, who shall issue appropriate instructions concerning the disposition of the shipment.

Sec. 252.263 Duties of customs officer to be performed by an internal revenue officer.—Where authorized by the collector of customs at the interior port of entry in the case of paragraph (a) of this section, or at the port in which is located the manufacturing bonded warehouse in the case of paragraph (b) of this section, the internal revenue officer at a distilled spirits plant shall perform the duties required, by this subpart, to be performed by a customs officer, in the following instances only:

(a) Where distilled spirits withdrawn without payment of tax, or where distilled spirits bottled or packaged for export with benefit of drawback, are laden at an interior port for exportation through another port; and

(b) Where distilled spirits withdrawn without payment of tax are to be transferred for deposit in a manufacturing bonded warehouse which is contiguous to the distilled spirits plant.

Sec. 252.264 Lading for exportation.—On receipt of the notification required in sec. 252.261, the collector of customs shall deliver both copies of the application, claim, or notice, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, covering the shipment, together with any forms which may be attached thereto, to a customs officer for inspection and supervision of lading. Such shipment shall be subject to the same requirements for inspection and supervision of lading at the port of exportation as may be required by Customs Regulations (19 CFR Ch. I) in the case of similar shipments of imported merchandise to be exported in customs bond. When an inspection of the shipment is made before it is laden on board the exporting carrier and such inspection discloses any discrepancy, the customs officer shall make note of the nature and extent of the discrepancy on each copy of the application, claim, or notice, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, and where the discrepancy involves one or more packages of distilled spirits, he shall make a gauge of each such package on Form 696.

Sec. 252.265 Evidence of fraud.—If the customs inspection discloses evidence of fraud, the customs officer shall detain the merchandise and notify the collector of customs who shall report the facts forthwith to the assistant regional commissioner within whose region the port of export is located. The assistant regional commissioner shall make investigation and take such action as the facts may warrant. Where the detained merchandise has been withdrawn for transfer and deposit in a manufacturing bonded warehouse, the merchandise shall be deemed not to have been deposited in said warehouse, and the designated officer shall hold in abeyance the progressing of Form 206 until advised by the collector of customs that the detained merchandise may be entered for deposit. Where the detained merchandise has been withdrawn or entered for deposit in a foreign-trade zone, it shall be deemed to not have been deposited in the zone and the customs officer shall hold in abeyance the processing of the application, notice, or claim, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, and Zone Form D, until advised by the collector of customs that the detained merchandise may be entered for deposit.

Sec. 252.266 Release of detained merchandise.—When any merchandise has been detained under the provisions of sec. 252.265, the collector of customs shall not release such merchandise until he is advised so to do by the assistant regional commissioner.

Sec. 252.267 Exportation from interior port.—Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may be entered for exportation at an interior customs port. The inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of Customs Regulations (19 CFR Ch. I): *Provided*, That, where, under the provisions of sec. 252.263, an internal revenue officer has been authorized to perform such duties, the internal revenue officer shall perform the duties of the customs officer. On completion of the lading, the designated officer shall affix the seals, execute the certificate of lading on both copies of the application, notice, or claim, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, and forward them, with attachments (if any), to the collector of customs at the interior port of entry. The collector shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the collector of customs at the interior port of entry.

Sec. 252.268 Receipt for liquors for use on vessels or aircraft.—Where liquors are withdrawn or removed for use on vessels or aircraft, the exporter shall procure and forward to the assistant regional commissioner a receipt executed under the penalties of perjury by the master or other authorized officer of the vessel, steamship company, or airline, as the case may be. The receipt shall give the number of containers, the serial numbers of the containers (if any), and the quantity received, and shall show that the liquors are in customs custody and have been or will be laden on board the vessel or aircraft, that they will be lawfully used on board the vessel or aircraft, and that no portion of the shipment has been or will be unladen in the United States or any of its territories or possessions. A receipt is not required, in the case of any shipment for use on vessels, when the liquors are laden on vessels of war, or, in cases other than supplies for vessels employed in the fisheries, where the amount of the tax on the liquors does not exceed $200. In the case of supplies for vessels employed in the fisheries, compliance with the provisions of sec. 252.22 is also required.

Sec. 252.269 Certification by collector of customs.—(a) *Exportation.*—When the collector of customs is satisfied that merchandise described on the application, notice, or claim, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, has been laden and cleared for export, he shall execute his certificate of lading and clearance on both copies of the form.

(b) *Distilled spirits and wines as supplies on vessels and aircraft.*—When the collector of customs is satisfied that the distilled spirits and wines described on Form 206, 1582, or 1582-A, as the case may be, have been duly laden for use on vessels and aircraft, and that proper accounting for such spirits or wines has been submitted to him as required by this part, he shall execute his certificate of lading for use on both copies of the form.

(c) *Disposition of forms.*—After executing his certificate, the collector of customs shall forward the original of Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, with attachments (if any), to the assistant regional commissioner designated on the form, and retain the remaining copy, with any attached forms, for his files.

Lading for Use on Aircraft

Sec. 252.280 Distilled spirits and wines.—When an airline desires to withdraw distilled spirits or wines from its stock being held at the airport under customs custody, for use on a particular aircraft, a requisition in triplicate shall be prepared for presentation to the customs officer. The requisition shall show the flight number, the registry number of the aircraft on which the distilled spirits or wines are to be laden, the country for which the aircraft is to be cleared, the date of departure of the aircraft, and the brand, kind, and quantity of distilled spirits or wines. Where the distilled spirits or wines are contained in kits which have been previously prepared while under customs custody, the kit number shall also be shown on the requisition. Where the kits are not prepared and the distilled spirits or wines are withdrawn for direct lading on aircraft, the requisition shall be serially numbered in lieu of the insertion of the kit number. When the distilled spirits or wines are withdrawn and laden aboard the aircraft, the lading shall be verified by the customs officer by an appropriate stamp or notation on the requisition. One copy of the requisition shall be retained by the customs officer who certifies to the lading for attachment to the outgoing manifest. The other two copies shall be delivered to the airline which shall retain both copies until the return of the flight. In case any of the distilled spirits or wines are removed from the aircraft on its return, they shall be returned to customs custody, appropriate notation made on both copies of the requisition retained by the airline and one copy shall be delivered to the customs officer for attachment to the incoming manifest. The remaining copy shall be retained by the airline.

Sec. 252.281 Certificate of use for distilled spirits and wines.—When all of the distilled spirits or wines represented by a single application, notice, or claim, Form 206, 1582, or 1582-A, as the case may be, have been withdrawn from customs custody and laden and used on aircraft, the airline shall prepare a certificate of use on which are itemized all the requisitions pertaining to such distilled spirits or wines. The certificate shall be executed under the penalties of perjury by an officer of the airline and shall show the name of the exporter, the entry number, the brand and kind of distilled spirits or wines, and the number of bottles to be accounted for; and, as to each requisition, the requisition (or kit) number, the date laden, the registry number of the aircraft, the country for which the aircraft was cleared, and the number of bottles used. When completed, the certificate shall be presented to the customs officer at the airport who shall then execute his certificate on both copies of the appropriate application, notice, or claim, Form 206, 1582, or 1582-A, as the case may be, noting thereon any exception, such as shortages or breakage. The customs officer shall then attach the certificate of use to the copy of the appropriate form and forward both copies of the form to the collector of customs.

Sec. 252.282 Beer.—When beer has been laden on board the aircraft for use as supplies, the customs officer shall execute his certificate on both copies of the Form 1582-B or Form 1689, as the case may be, forward the original to the assistant regional commissioner designated on the form, and retain the copy for his files.

Receipt in Manufacturing Bonded Warehouse

Sec. 252.285 Receipt in manufacturing bonded warehouse.—On receipt of the distilled spirits or wines and the related Form 206 (and Form 2630, if any), the customs officer in charge of the manufacturing bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on Form 206 (and Form 2630, if any), and shall make a report of his gauge on Form 696, in duplicate: *Provided,* That where, under the provisions of sec. 252.263, an internal revenue officer has been authorized to perform the duties of the customs officer, the internal revenue officer shall make note of such discrepancy on each copy of Form 206. Where the officer is satisfied that the shipment corresponds with the description on Form 206 (and Form 2630, if any), he shall execute his certificate of deposit on both copies of Form 206, and forward the original of Forms 206 and 696, and a copy of Form 2630 (if any), to the assistant regional commissioner. He shall retain the remaining copies for his files.

Receipt in Foreign-Trade Zone

Sec. 252.290 Receipt in foreign-trade zone.—On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be. Where, with respect to distilled spirits or wines, the customs officer deems it necessary to make a regauge of such spirits or wines, he shall make such regauge on Form 696, in duplicate. The customs officer shall note on both copies of the Form 206, 1582, 1582-A, 1582-B, or 1689, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the assistant regional commissioner the following:

(a) Original of the deposit form;
(b) Original of Form 696, if any; and
(c) Copy of Form 2630, if any.

The remaining copy of the deposit form, and of any other form, shall be retained by the customs officer for his files.

EXCERPTS FROM THE REGULATIONS IN 27 CFR PART 4, "WINE LABELING AND ADVERTISING" * * * * * * *

LABELING REQUIREMENTS FOR WINE

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Sec. 4.37 Net contents.—(a) The net contents of wine for which a standard of fill is prescribed in secs. 4.70–4.72 shall be stated in the same manner and form in which such standard of fill is set forth in said article.

(b) The net contents of wine for which no standard of fill is prescribed in secs. 4.70–4.72 shall be stated as follows, except that net contents may be expressed in the metric system of measure for containers of 1/2 liter, 1 liter, and 1-1/2 liter:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than a gallon, the net contents shall be stated in gallons and fractions thereof.

(c) All fractions shall be expressed in their lowest denomination.

(d) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(e) Statement of net contents shall indicate exactly the volume of wine within the container, except the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacities of containers, resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of aporoximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmosphere conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(f) Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

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Requirements for Withdrawal of Wine from Customs Custody

Sec. 4.40 Label approval and release.—(a) *Application.*—On or after December 15, 1936, imported wine shall not be released from customs custody for consumption, except pursuant to procedure and forms prescribed in this section.

(b) *Certificate of Label Approval.*—No imported wine shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1647), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.*—If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported wine bearing labels identical with those shown thereon may be released from customs custody.

Sec. 4.45 Certificates of origin and identity.—Imported wine shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such wine has been authorized by the foreign government concerned, certifying as to the identity of the wine and that the wine has been produced in compliance with the laws of the respective foreign government regulating the production of such wine for home consumption.

Standards of Fill for Wine

Sec. 4.70 Application.—(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70–4.72 shall not apply (1) to sake, or (2) to wine packed in containers of 5 gallons or more, or (3) to imported wine in the original containers in which entered in customs custody, or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to the effective date of this article, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

Sec. 4.71 Standard wine containers.—(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design.*—It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use; and

(2) *Fill.*—It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in sec. 4.72; and

(3) *Headspace.*—It shall be so made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure of the net contents of the container is 2/5 pint or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

Sec. 4.72 Standards of fill.—(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

(1) For all wines:

4.9 gallons
3 gallons
1 gallon
4/5 gallon
1/2 gallon
2/5 gallon
1 quart
4/5 quart
1 pint
4/5 pint
1/2 pint
2/5 pint
4 ounces
3 ounces
2 ounces

(2) In addition, for aperitif wines only:

15/16 quart

Provided, however, That the standards of fill for the 4/5 and 2/5 gallon shall be applicable only to wine contained in bottles of the traditional bordeaux or burgundy shapes, and the 1/2 pint standard shall be applicable only to wine in bottles of traditional chianti or round shapes.

(b) The tolerances in fill shall be the same as are allowed by sec. 4.37 in respect to statement of net contents upon labels.

General Provisions

Sec. 4.80 Exports.—The regulations in this part shall not apply to wine exported in bond.

EXCERPTS FROM THE REGULATIONS IN 27 CFR PART 5, "LABELING AND ADVERTISING OF DISTILLED SPIRITS"

Sec. 5.1 Definitions. As used in this part:

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(h) The term "gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60°F. 20°C. All other liquid measures used are subdivisions of the gallon as so defined.

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Requirements for Withdrawal from Customs Custody of Bottled Imported Distilled Spirits

Sec. 5.45 Label approval and release.—(a) On or after August 15, 1936, bottled distilled spirits shall not be released from customs custody for consumption, except pursuant to procedure and form prescribed by this article.

(b) *Certificate of label approval.*—No bottled distilled spirits shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1647), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.*—If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of bottled distilled spirits bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.*—Distilled spirits in customs custody which are not labeled in conformity with certificates of label approval issued by the Director, Alcohol and Tobacco Tax Division, must be relabeled prior to release, under the supervision and direction of the customs officers of the port at which such distilled spirits are located.

Sec. 5.46 Certificates of origin and age.—(a) Scotch, Irish, and Canadian whiskies, in bottles, whether blended or unblended, imported on or after August 15, 1936, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Governments, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of the whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign government for spirits intended for home consumption.

(b) If the label of any Scotch, Irish, or Canadian whisky, whether blended or unblended, imported in bottles on or after August 15, 1936, contains any statement of age for Scotch or Irish whisky in excess of 3 years, or Canadian whisky in excess of 2 years, the whisky shall not be released from customs custody unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying that none of the distilled spirits in the bottle are of an age less than that stated on the label. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers.

(c) If the label of any rum, brandy, or Cognac, imported in bottles on or after August 15, 1936, contains any statement of age, the rum, brandy, or Cognac shall not be released from customs custody unless accompanied by a certificate issued by a duly authorized official of the Government of the foreign country in which the rum, brandy, or Cognac was produced, certifying that none of the distilled spirits in the product are of an age less than that stated on the label. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers. Cognac in bottles, imported on or after August 15, 1936, shall not be released from customs custody unless the invoice is accompanied by a certificate issued by a duly authorized official of the appropriate foreign government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(d) Whisky (as defined in Article II, section 21, class 2), and American type whiskies, imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for release, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whisky: (1) The class and type (such as straight whisky, straight rye whisky, straight bourbon whisky, etc.) thereof; (2) the American proof at which distilled; (3) that no neutral spirits or other whisky has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whisky; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whisky and the distinctive types of whisky: (1) The class and type (such as whisky, rye whisky, bourbon whisky, etc.); (2) the American proof at which distilled; (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whisky; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whisky: (1) The class and type (such as blended whisky, blended rye whisky, blended bourbon whisky, etc.); (2) the percentage of straight whisky, or any distinctive type thereof, used in the blend; (3) the American proof at which the straight whisky was distilled; (4) the percentage of other whisky, if any, in the blend; (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled; (6) the age of the straight whisky and the age of the other whisky, if any, in the blend; and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred).

(e) Distilled spirits (other than Scotch, Irish and Canadian whiskies, and Cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

* * * * * * *

' Standards of Fill for Bottled Distilled Spirits

Sec. 5.70 Application of this article.—No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with this article. Distilled spirits domestically bottled prior to January 1, 1935, and imported distilled spirits entered in customs bond in bottles prior to March 1, 1935, shall be regarded as being in conformity with this article (1) if the bottle, or the label on the bottle, contains a conspicuous statement of the net contents thereof, and (2) if the actual capacity of the bottle is not substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

Sec. 5.71 Misbranding.—(a) Distilled spirits shall be deemed to be misbranded—

(1) If the bottle is not a standard liquor bottle as prescribed by section 72 for such distilled spirits.

(2) If the amount of the distilled spirits contained in the bottle does not conform to one of the standards of fill in effect therefor under section 73.

(3) If the bottle is in an individual carton or other container and the carton or other container is so made or formed as to mislead purchasers as to the size of the bottle.

Sec. 5.72 Standard liquor bottles.—(a) *General.*—A standard liquor bottle shall be one so made, formed, and filled as not to mislead the purchaser.

(b) *Size.*—A liquor bottle shall be held to be so filled as to mislead the purchaser if the bottle holds distilled spirits in an amount other than one of the standards of fill in effect therefor under section 73.

(c) *Headspace.*—A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(d) *Design.*—A liquor bottle shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

Sec. 5.73 Standards of fill.—(a) The standards of fill for distilled spirits in liquor bottles shall be the following, subject to the tolerances hereinafter allowed:

(1) For all distilled spirits, whether domestically manufactured, domestically bottled, or imported:

1 gallon.
1/2 gallon.
1 quart.
4/5 quart.
1 pint.
1/2 pint.
1/8 pint.
1/10 pint.

(2) In addition, for brandy, whether domestically manufactured, domestically bottled, or imported:

1/16 pint.

(3) In addition, for Scotch and Irish whisky and Scotch and Irish type whisky, and for brandy and rum:

4/5 pint.

(CAUTION: Sec. 5.73(a)(3) is amended, effective April 3, 1961, by deleting the words "and Scotch and Irish type whisky."—T.D. 6288, published April 3, 1958)

(b) The following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due exclusively to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

* * * * * * *

General Provisions

Sec. 5.80 Exports.—These regulations shall not apply to distilled spirits for export.

EXCERPTS FROM THE REGULATIONS IN 27 CFR PART 7, "LABELING AND ADVERTISING OF MALT BEVERAGE."

* * * * * * *

Requirements for Withdrawal of Imported Malt Beverages from Customs Custody

Sec. 7.30 Application.—Sections 7.30 and 7.31 shall apply to withdrawals of malt beverages from customs custody only in the event that the laws or regulations of the State in which such malt beverages are withdrawn for consumption require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of sections 7.20–7.29.

Sec. 7.31 Label approval and release.—(a) *Application.*—On or after December 15, 1936, imported malt beverages shall not be released from customs custody for consumption, except pursuant to the procedure and forms prescribed by sections 7.30 and 7.31.

(b) *Certificate of label approval.*—No imported malt beverages shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1647), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.*—If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported malt beverages bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.*—Imported malt beverages in customs custody, which are not labeled in conformity with certificates of label approval issued by the Director, Alcohol and Tobacco Tax Division, must be relabeled, prior to release, under the supervision and direction of the customs officers of the port at which such malt beverages are located.

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General Provisions

Sec. 7.60 Exports.—This part shall not apply to malt beverages exported in bond.

XI. FOODS, DRUGS, AND COSMETICS: INSECTICIDES, FUNGICIDES, AND RODENTICIDES; DANGEROUS CAUSTIC OR CORROSIVE SUBSTANCES

SECTION 801 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND REGULATIONS THEREUNDER

United States Code, title 21, section 381 (sec. 801 of the Federal Food, Drug, and Cosmetic Act, as amended):

Sec. 381. Imports and exports.—(a) Imports; list of registered foreign establishments; samples from unregistered foreign establishments; examination and refusal of admission. The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. The Secretary of Health, Education, and Welfare shall furnish to the Secretary of the Treasury a list of establishments registered pursuant to section 360(i) of this title and shall request that if any drugs manufactured, prepared, propagated, compounded, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such drugs to be delivered to the Secretary of Health, Education, and Welfare, with notice of such delivery to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such article has been manufactured, processed, or packed under insanitary conditions, or (2) such article is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) such article is adulterated, misbranded, or in violation of section 355 of this title, then such article shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such article refused admission unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations. This subsection shall not be construed to prohibit the admission of narcotic drugs the importation of which is permitted under section 173 of this title.

(b) *Same; disposition of refused articles.*—Pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary that an article included within the provisions of clause (3) of subsection (a) of this section can, by relabeling or other action, be brought into compliance with this chapter or rendered other than a food, drug, device, or cosmetic, final determination as to admission of such article may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected articles or portions thereof, as may be specified in the Secretary's authorization). All such relabeling or other action pursuant to such authorization shall in accordance with regulations be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) *Same; charges concerning refused articles.*—All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any article refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

The following joint regulations were issued by the Treasury Department and the Department of Health, Education, and Welfare for the enforcement of the import provisions of the Federal Food, Drug, and Cosmetic Act (16 F.R. 4929):

1.315 Definitions.—For the purposes of the regulations prescribed under section 801 (a), (b), and (c) of the Federal Food, Drug, and Cosmetic Act:

(a) The term "owner" or "consignee" means the person who has the rights of a consignee under the provisions of sections 483, 484, and 485 of the Tariff Act of 1930, as amended (19 U.S.C. 1483, 1484, 1485).

(b) The term "chief of district" means the chief of the district of the Food and Drug Administration having jurisdiction over the port of entry through which an article is imported or offered for import, or such officer of the district as he may designate to act in his behalf in administering and enforcing the provisions of section 801 (a), (b), and (c).[1]

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[1] For a list of districts of the Food and Drug Administration, see the FEDERAL REGISTER of July 2, 1952 (17 F.R. 5972).

1.316 Notice of sampling.—When a sample of an article offered for import has been requested by the chief of district, the collector of customs having jurisdiction over the article shall give to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such article and not distribute it until further notice from the chief of district or the collector of customs of the results of examination of the sample.

1.317 Payment for samples.—The Food and Drug Administration will pay for all import samples which are found to be in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act. Billing for reimbursement should be made by the owner or consignee to the Food and Drug Administration district headquarters in whose territory the shipment was offered for import. Payment for samples will not be made if the article is found to be in violation of the act, even though subsequently brought into compliance under the terms of an authorization to bring the article into compliance or rendered not a food, drug, device, or cosmetic as set forth in section 1.319.

1.318 Hearing.—(a) If it appears that the article may be subject to refusal of admission, the chief of district shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony. Upon timely request, giving reasonable grounds therefor, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the article, and may be introduced orally or in writing.

(b) If such owner or consignee submits or indicates his intention to submit an application for authorization to relabel or perform other action to bring the article into compliance with the act or to render it other than a food, drug, device, or cosmetic, such testimony shall include evidence in support of such application. If such application is not submitted at or prior to the hearing, the chief of district shall specify a time limit, reasonable in the light of the circumstances, for filing such application.

1.319 Application for authorization.—Application for authorization to relabel or perform other action to bring the article into compliance with the act or to render it other than a food, drug, device, or cosmetic may be filed only by the owner or consignee, and shall:

(a) Contain detailed proposals for bringing the article into compliance with the act or rendering it other than a food, drug, device, or cosmetic.

(b) Specify the time and place where such operations will be carried out and the approximate time for their completion.

1.320 Granting of authorization.—(a) When authorization contemplated by section 1.319 is granted, the chief of district shall notify the applicant in writing, specifying:

(1) The procedure to be followed;

(2) The disposition of the rejected articles or portions thereof;

(3) That the operations are to be carried out under the supervision of an officer of the Food and Drug Administration or the Bureau of Customs, as the case may be;

(4) A time limit, reasonable in the light of the circumstances, for completion of the operations; and

(5) Such other conditions as are necessary to maintain adequate supervision and control over the article.

(b) Upon receipt of a written request for extension of time to complete such operations, containing reasonable grounds therefor, the chief of district may grant such additional time as he deems necessary.

(c) An authorization may be amended upon showing of reasonable grounds therefor and the filing of an amended application for authorization with the chief of district.

(d) If ownership of an article covered by an authorization changes before the operations specified in the authorization have been completed, the original owner will be held responsible, unless the new owner has executed a bond and obtained a new authorization. Any authorization granted under this section shall supersede and nullify any previously granted authorization with respect to the article.

1.321 Bonds.—(a) The bonds required under section 801 (b) of the act may be executed by the owner or consignee on the appropriate form of a customs single-entry or term bond, containing a condition for the redelivery of the merchandise or any part thereof upon demand of the collector of customs and containing a provision for the performance of conditions as may legally be imposed for the relabeling or other action necessary to bring the article into compliance with the act or rendering it other than a food, drug, device, or cosmetic, in such manner as is prescribed for such bond in the customs regulations in force on the date of request for authorization. The bond shall be filed with the collector of customs.

(b) The collector of customs may cancel the liability for liquidated damages incurred under the above-mentioned provisions of such a bond, if he receives an application for relief therefrom, upon the payment of a lesser amount or upon such other terms and conditions as shall be deemed appropriate under the law and in view of the circumstances, but the collector shall not act under this regulation in any case unless the chief of district is in full agreement with the action.

1.322 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.—The cost of supervising the relabeling or other action in connection with an import of food, drugs, devices, or cosmetics which fails to comply with the Federal Food, Drug, and Cosmetic Act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 801 (b) of the act, as amended. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station, as provided by law.

(c) Services of the supervising officer, to be calculated at a flat rate of $8 per hour (which shall include administrative expense), except that such services performed by a customs officer and subject to the provisions of the Act of February 13, 1911, as amended (sec. 5, 36 Stat. 901 as amended; 19 U.S.C. 267), shall be calculated as provided in that act.

(d) Services of analyst, to be calculated at a flat rate of $10.00 per hour (which shall include the use of the chemical laboratories and equipment of the Food and Drug Administration).

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than 1/2 hour.

REGULATIONS UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

The following joint regulations of the Secretary of Agriculture and the Secretary of the Treasury (7 CFR 362.30-362.36) were issued for the enforcement of section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., Supp. II, 135h):

362.30 Definitions.—All terms used in the regulations in this part shall have the meaning set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act, and section 362.2 of the regulations promulgated by the Secretary of Agriculture thereunder. In addition the term "Collector of Customs" means any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

362.31 Registration.—All economic poisons are required to be registered under the provisions of section 4 of the act, and section 362.10 of the regulations promulgated by the Secretary of Agriculture thereunder before being permitted entry into the United States.

362.32 Declaration.—All invoices of economic poisons and devices imported into the United States shall be accompanied by a declaration of the shipper as follows:

I, ____,
(Name in full)
the undersigned, do hereby declare that I am the ______________________ ______________________ of the
(Manufacturer or shipper)
merchandise herein mentioned, which consists of economic poisons or devices or both. None of this merchandise is adulterated or misbranded or otherwise violates the prohibitions set forth in the Federal Insecticide, Fungicide, and Rodenticide Act in any respect, or is dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made, or from which it is exported. The merchandise was manufactured in ____
(Country)
by ________ ______________________________________
(Name of manufacturer)
and is exported from ______________________________
(City)
consigned to ______________________________________
(City)
Dated at ______________ this ______________ date of ______________, 19______

____
(Signature)

362.33 Notice of shipments for importation.—The Collector of Customs shall notify the Director of all shipments of economic poisons and devices being imported into the United States and shall detain all such shipments until notified by the Director that the shipment may be released.

362.34 Drawing of samples of import shipments.—The Collector of Customs shall, upon request by the Director, draw samples of import shipments of economic poisons and devices, and deliver them together with a copy of the labeling, and all accompanying circulars and advertising matter pertaining to such merchandise to the designated laboratory of the Production and Marketing Administration, United States Department of Agriculture.

362.35 Bond for release of imports pending examination.—Consignments of economic poisons and devices offered for importation into the United States may be detained pending examination to determine whether or not they comply with the requirements of the act, or they may be released to the consignee prior to such examination upon the execution of a customs single-entry or term bond in the appropriate form and in the amount prescribed in regulations of the United States Customs Service, United States Treasury Department, in force on the date of entry, and containing a provision for the redelivery of the merchandise or any part thereof upon the demand of the Collector of Customs at any time. The bond shall be filed with the Collector of Customs, who, in case of default, shall take appropriate action to effect the collection of all liquidated damages provided for in the bond.

362.36 Procedure after examination.—(a) If, upon examination or analysis of a sample from an import consignment of economic poisons or devices, such sample is found not to be in violation of the act, the Director shall notify the Collector of Customs that the shipment may be released. However, if, upon examination or analysis of the sample and consideration of other evidence in the case such sample is found to be in violation of the act, the owner or consignee shall be notified promptly by the Director of the nature of the violation and be given a reasonable time, not to exceed sixty days, to submit written material or, at his option, to appear before the Director and introduce testimony, to show cause why the shipment should not be destroyed or refused entry.

(b) If, after consideration of all of the evidence in the case, it still appears that the consignment may not lawfully be admitted into the United States, the Director shall notify the Collector of Customs that the merchandise is in violation of the act and the nature of the violation, and thereupon the Secretary of the Treasury (1) shall refuse delivery to the consignee and, under such regulations as he may prescribe, shall cause the destruction of any merchandise not exported by the consignee within 3 months from the date of notice of such refusal of entry or (2) if the shipment has been released to the consignee under bond, shall take action to enforce the terms of said bond.

SECTION 14 OF THE FEDERAL HAZARDOUS SUBSTANCES ACT AND REGULATIONS THEREUNDER

United States Code, title 15, section 1273 (section 14, Federal Hazardous Substances Act) 21 CFR 191.265-272.]

Imports

Sec. 14. (a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of hazardous substances which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that such hazardous substance is a misbranded hazardous substance or banned hazardous substance or in violation of section 4(f), then such hazardous substance shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such hazardous substance refused admission unless such hazardous substance is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

(b) Pending decision as to the admission of a hazardous substance being imported or offered for import, the Secretary of the Treasury may authorize delivery of such hazardous substance to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Secretary of Health, Education, and Welfare that the hazardous substance can, by relabeling or other action, be brought into compliance with this Act, final determination as to admission of such hazardous substance may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected hazardous substances or portions thereof, as may be specified in the Secretary's authorization). All such relabeling or other action pursuant to such authorization shall, in accordance with regulations, be under the supervision of an officer or employee of the Department of Health, Education, and Welfare designated by the Secretary, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) All expenses (including travel, per diem, or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any hazardous substance refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

Sec. 191.265 Imports; definitions.—For the purposes of the regulations prescribed under section 14 of the act:

(a) The term "owner or consignee" means the person who has the rights of a consignee under the provisions of the Tariff Act of 1930 (secs. 483, 484, 485, 46 Stat. 721 as amended; 19 U.S.C. 1483, 1484, 1485).

(b) The term "director of district" means the director of the district of the Food and Drug Administration having jurisdiction over the port of entry through which a hazardous substance is imported or offered for import, or such officer of the district as he may designate to act in his behalf in administering and enforcing the provisions of section 14 of the act.

Sec. 191.266 Notice of sampling.—When a sample of a hazardous substance offered for import has been requested by the director of the district, the district director of Customs having jurisdiction over the hazardous substance shall give to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such hazardous substance and not distribute it until further notice from the director of district or the district director of Customs of the results of examination of the sample.

Sec. 191.267 Payment for samples.—The Food and Drug Administration will pay for all import samples that are found to be in compliance with the requirements of the act. Billing for reimbursement should be made by the owner or consignee to the Food and Drug Administration district headquarters in whose territory the shipment was offered for import. Payment for samples will not be made if the hazardous substance is found to be in violation of the act, even though subsequently brought into compliance under the terms of an authorization to bring the article into compliance.

Sec. 191.268 Hearing.—(a) If it appears that the hazardous substance may be subject to refusal of admission, the director of district shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony. Upon timely request, giving reasonable grounds therefor, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the hazardous substance, and may be introduced orally or in writing.

(b) If such owner or consignee submits or indicates his intention to submit an application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act, such testimony shall include evidence in support of such application. If such application is not submitted at or prior to the hearing, the director of district shall specify a time limit, reasonable in the light of the circumstances, for filing such application.

Sec. 191.269 Application for authorization.—Application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act may be filed only by the owner or consignee and shall:

(a) Contain detailed proposals for bringing the article into compliance with the act.

(b) Specify the time and place where such operations will be carried out and the approximate time for their completion.

Sec. 191.270 Granting of authorization.—(a) When authorization contemplated by sec. 191.269 is granted, director of district shall notify the applicant in writing, specifying:

(1) The procedure to be followed;

(2) That the operations are to be carried out under the supervision of an officer of the Food and Drug Administration or the United States Customs Service, as the case may be.

(3) A time limit, reasonable in the light of the circumstances, for completion of the operations; and

(4) Such other conditions as are necessary to maintain adequate supervision and control over the article.

(b) Upon receipt of a written request for extension of time to complete such operations, containing reasonable grounds therefor, the director of district may grant such additional time as he deems necessary.

(c) An authorization may be amended upon a showing of reasonable grounds therefor and the filing of an amended application for authorization with the director of district.

(d) If ownership of a hazardous substance covered by an authorization changes before the operations specified in the authorization have been completed, the original owner will be held responsible, unless the new owner has executed a bond and obtained a new authorization. Any authorization granted under this section shall supersede and nullify any previously granted authorization with respect to the article.

Sec. 191.271 Bonds.—(a) The bonds required under section 14(b) of the act may be executed by the owner or consignee on the appropriate form of a Customs single-entry or term bond, containing a condition for the redelivery of the merchandise or any part thereof upon demand of the district director of Customs and containing a provision for the performance of conditions as may legally be imposed for the relabeling or other action necessary to bring the hazardous substance into compliance with the act in such manner as is prescribed for such bond in the Customs regulations in force on the date of request for authorization. The bond shall be filed with the district director of Customs.

(b) The district director of Customs may cancel the liability for liquidated damages incurred under the abovementioned provisions of such a bond, if he receives an application for relief therefrom, upon the payment of a lesser amount or upon such other terms and conditions as shall be deemed appropriate under the law and in view of the circumstances, but the district director shall not act under this regulation in any case unless the director of district is in full agreement with the action.

Sec. 191.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.—The cost of supervising the relabeling or other action necessary in connection with an import of a hazardous substance that fails to comply with the act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 14(b) of the act. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station, as provided by law.

(c) Services of the supervising officer, to be calculated at a flat rate of $8.00 per hour (which will include administrative expense), except that such services performed by a Customs officer and subject to the provisions of section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), shall be calculated as provided in that act.

(d) Services of analyst, to be calculated at a flat rate of $10.00 per hour (which shall include the use of the chemical laboratories and equipment of the Food and Drug Administration).

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than 1/2 hour.

XII. DOMESTIC ANIMALS, ANIMAL PRODUCTS, AND FEEDING MATERIALS

IMPORTED POULTRY PRODUCTS

Regulations under the Poultry Products Inspection Act (71 Stat. 441, as amended (21 U.S.C. 451 *et seq.*))

Regulations of the Animal and Plant Health Inspection Service, Department of Agriculture, relating to the importation of poultry products, Code of Federal Regulations, Title 9, sections 381.195-381.209.

Sec. 381.195 Requirements for importation into United States.—(a) No slaughtered poultry, or parts or products thereof, shall be imported into the United States unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and they also comply with the regulations prescribed in this subpart to assure that they comply with the standards provided for in the Act: *Provided,* That the provisions of this subpart apply to such articles only if they are capable of use as human food.

(b) Except as provided in section 381.207, slaughtered poultry and other poultry products may be imported only if they were processed solely in countries listed in section 381.196(b). Slaughtered poultry may be imported only if it qualifies as ready-to-cook or dressed poultry. Dressed poultry may be imported into the United States only if it is consigned to an offical establishment for evisceration under the Act.

Sec. 381.196 Eligibility of foreign countries for importation of poultry products into the United States.—(a) (1) Whenever it shall be determined by the Administrator that the system of poultry inspection maintained by any foreign country, with respect to establishments preparing products in such country for export to the United States, insures compliance of such establishments and their poultry products, with requirements at least equal to all the provisions of the Act and the regulations in this part which are applied to official establishments in the United States, and their poultry products, and that reliance can be placed upon certificates required under this subpart from authorities of such foreign country, notice of that fact will be given by including the name of such foreign country in paragraph (b) of this section. Thereafter, poultry products processed in such establishments which are certified and approved in accordance with subparagraph (3) of this paragraph shall be eligible, so far as the regulations in this part are concerned, for importation into the United States from such foreign country after applicable requirements of this part have not been met.

(2) The determination of acceptability of a foreign poultry inspection system for purposes of this section shall be based on an evaluation of the foreign program in accordance with the following requirements and procedures:

(i) The system shall have a program organized and administered by the national government of the foreign country. The system as implemented must provide standards at least equal to those of the Federal system of poultry inspection in the United States with respect to:

(a) Organizational structure and staffing, so as to insure uniform enforcement of the requisite laws and regulations in all establishments throughout the system at which poultry products are processed for export to the United States;

(b) Ultimate control and supervision by the national government over the official activities of all employees or licensees of the system;

(c) The assignment of competent qualified inspectors;

(d) Authority and responsibility of national inspection officials to enforce the requisite laws and regulations governing poultry inspection and to certify poultry products intended for export;

(e) Adequate administrative and technical support;

(f) Other requirements of adequate inspection service as required by the regulations.

(ii) The legal authority for the system and the regulations thereunder shall impose requirements at least equal to those governing the system of poultry inspection organized and maintained in the United States with respect to:

(a) Ante mortem inspection of poultry for slaughter, which shall be performed by veterinarians or by other employees or licensees of the system under the direct supervision of veterinarians;

(b) Post mortem inspection of carcasses and parts thereof at time of slaughter, performed by veterinarians or other employees or licensees of the system under the direct supervision of veterinarians;

(c) Official controls by the national government over establishment construction, facilities, and equipment;

(d) Direct and continuous official supervision of slaughtering of poultry and processing of poultry products, by the assignment of inspectors to establishments certified under subparagraph (3) of this paragraph to assure that adulterated or misbranded poultry products are not processed for export to the United States Government;

(e) Complete separation of establishments certified under subparagraph (3) of this paragraph from establishments not certified, and the maintenance of a single standard of inspection and sanitation throughout all certified establishments;

(f) Requirements for sanitation at certified establishments and for sanitary handling of poultry products;

(g) Official controls over condemned material until destroyed or removed and thereafter excluded from the establishment;

(h) Other matters for which requirements are contained in the act or the regulations in this part.

(iii) Countries desiring to establish eligibility for importation of poultry products into the United States may request a determination of eligibility by presenting copies of the laws and regulations on which the foreign poultry inspection system is based and such other information as the Administrator may require with respect to matters enumerated in subdivisions (i) and (ii) of ths subparagraph (2). Determination of eligibility is based on a study of the documents and other information presented and an initial review of the system in operation by a representative of the Department using the criteria listed in subdivisions (i) and (ii) of this subparagraph (2). Maintenance of eligibility of a country for importation of poultry products into the United States depends on the results of periodic reviews of the foreign poultry inspection system in operation by a representative of the Department, and the timely submission of such documents and other information related to the conduct of the foreign inspection system as the Administrator may find pertinent to and necessary for the determinations required by this section.

(iv) The foreign inspection system must maintain a program of periodic supervisory visits to each official establishment certified in accordance with subparagraph (3) of this paragraph to assure that requirements referred to in (a) through (h) of subdivision (ii) of this subparagraph (2), at least equal to those of the Federal system of poultry inspection in the United States are being met. A representative of the foreign inspection system shall make at least one such supervisory visit each month to each such establishment and prepare a written report of his findings in respect to the requirements referred to in (a) through (h) of subdivision (ii) of this subparagraph (2), copies of which shall be available to the representative of the Department at the time of his review upon request by said representative to a responsible foreign inspection official: *Provided*, That such visits and reports are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States.

(3) Only those establishments that are determined and certified to the Department by a responsible official of the foreign poultry inspection system as fully meeting the requirements of subparagraphs (2) (i) and (ii) of this paragraph are eligible to have their products imported into the United States. Eligibility of certified establishments is subject to review by the Department (including observations of the establishments by Program representatives at times prearranged with the officials of the foreign inspection system). Certifications of establishments must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may, at his discre-

tion, terminate the eligibility of any foreign establishment for importation of its poultry products into the United States if he has information that such establishment does not comply with the requirements listed in subparagraphs (2) (i) and (ii) of this paragraph or if he cannot obtain current information concerning such establishment. The Administrator will provide reasonable notice to the foreign government of the proposed termination of eligibility of any foreign establishment for importation of its poultry products into the United States unless, in his judgment, delay in terminating its eligibility could result in the importation of any adulterated or misbranded poultry products. Certifications of official establishments by the responsible official of the foreign poultry inspection system shall be in the following form:

Control Numbers	Name	Address

Date ______ ______

(Signature)

______

(Official title)

(4) Poultry products from foreign countries not listed in paragraph (b) of this section are not eligible for importation into the United States, except as provided by sections 381.207 and 381.209. The listing of any foreign country under this section may be withdrawn whenever it shall be determined by the Administrator that the system of poultry inspection maintained by such foreign country does not assure compliance with requirements at least equal to all the requirements of the Act and the regulations as applied to official establishments in the United States; or that reliance cannot be placed upon certificates required under this subpart from authorities of such foreign country; or that, for lack of current information concerning the system of poultry inspection being maintained by such foreign country, such foreign country should be required to reestablish its eligibility for listing.

(b) It has been determined that poultry products from the following countries, covered by foreign poultry inspection certificates of the country of origin as required by section 381.197, are eligible under the regulations in this subpart for importation into the United States, after inspection and marking as required by the applicable provisions of this subpart:[1]

Canada. France. Hong Kong.

Sec. 381.197 Imported products; foreign inspection certificates required.—(a) Except as provided in sections 381.207 and 381.209, each consignment containing any slaughtered poultry or other poultry products consigned to the United States from a foreign country shall be accompanied with a foreign inspection certificate substantially in the form illustrated in paragraph (c) of this section if it covers dressed poultry or other uneviscerated slaughtered poultry, and substantially in the form illustrated in paragraph (b) of this section if it covers any other poultry product.

(b) The form of foreign poultry product inspection certificate shall be as follows:

FOREIGN POULTRY PRODUCT INSPECTION CERTIFICATION
(Except for uneviscerated poultry)

Place ______ ______ ______
(City) (Country) Date

I hereby certify that the poultry herein described were derived from poultry which received ante mortem and post mortem inspections at the time of slaughter; and that such poultry products are sound, healthful, wholesome, clean and otherwise fit for human food, and are not adulterated and have not been treated with and do not contain any dye, chemical, preservative, or ingredient not permitted by the regulations governing the inspection of poultry products of the U.S. Department of Agriculture, filed with me, and that said poultry products have been handled only in a sanitary manner in this country; and are otherwise in compliance with requirements at least equal to those in the Poultry Products Inspection Act and said regulations.

KIND OF PRODUCT

______
______
______

Number of pieces or packages	Weight

Identification marks on containers ______
Consignor ______
Address ______
Consignee ______
Destination ______
Shipping marks ______

(Signature) ______
(Name of official of national foreign government authorized to issue inspection certificates for poultry products exported to the United States)
(Official title) ______

(c) The form of foreign inspection certificate for dressed poultry shall be as follows:

FOREIGN DRESSED POULTRY INSPECTION CERTIFICATE

Place ______ Date ______

I hereby certify that the dressed poultry herein described was derived from poultry which received ante mortem inspection at the time of slaughter and post mortem inspection insofar as possible for uneviscerated poultry, and that such dressed poultry is sound, healthful, wholesome, clean, and otherwise fit for human food, and is not adulterated, and has not been treated with and does not contain any dye, chemical, or preservative not permitted by the regulations governing the inspection of poultry and poultry products of the U.S. Department of Agriculture, filed with me, so far as could be determined by such inspection, and that said dressed poultry has been handled only in a sanitary manner in this country and is otherwise in compliance with requirements at least equal to those in the Poultry Products Inspection Act and said regulations.

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[1] Listing of any country in this section does not relieve the poultry products of such country from applicable requirements under other Federal laws.

Number of pieces or packages	Weight
________________	________________
________________	________________

Identification marks on containers ________________
Consignor ________________
Address ________________
Consignee ________________
Destination ________________
Shipping marks ________________

(Signature) ________________
(Name of official of national foreign government authorized to issue inspection certificates for dressed poultry exported to the United States)
(Official title) ________________

Sec. 381.198 Importer to make application for inspection of imported poultry products.—Each person who wishes to import any slaughtered poultry or other poultry product shall make application for inspection to the inspector in charge of the import inspection office at the port where the poultry product is to be offered for entry, or to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, as long as possible in advance of the anticipated arrival of each consignment of such product, except in the case of poultry product exempted from inspection by sections 381.207 or 381.209. Each application shall state the approximate date on which the consignment is due to arrive in the United States, the name of the ship or other carrier transporting it, the name of the country where the product was processed, the name of the country from which the product was shipped, the place of destination, the quantity and kind of product, whether fresh, frozen, cured, or canned, and the point of first arrival in the United States.

Sec. 381.199 Inspection of imported poultry products.—(a) Except as provided in section 381.209, and paragraph (c) of this section, all slaughtered poultry and poultry products imported from any foreign country listed in section 381.196(b) shall be inspected in accordance with inspection procedures prescribed by the Administrator, including the examination of the labeling information on the containers, by an inspector, before the same shall be allowed entry into the United States. Importers will be advised of the point where inspection will be made, and in case of small shipments (less than carload lots) the importer may be required to move the product to the location of the nearest inspector.

(b) Inspectors may take, without cost to the United States, from each consignment of imported poultry products, such samples of the products as are deemed necessary to determine the eligibility of the products for entry into the commerce of the United States.

(c) Poultry products imported under section 381.207 shall not be sampled and inspected under this section unless there is reason for suspecting the presence therein of a substance in violation of that section, and in such case they shall be sampled and inspected in accordance with paragraph (a) of this section.

Sec. 381.200 Imported poultry products, retention in Customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities and assistance.—(a) No slaughtered poultry or other poultry product required by this subpart to be inspected shall be released from Customs custody prior to inspection, but such product may be delivered to the consignee, or his agent, prior to inspection, if the consignee shall furnish a bond, in form prescribed by the Secretary of the Treasury, conditioned that the product shall be returned, if demanded, to the district director of the port where the same is offered for clearance through the Customs.

(b) Except as provided in paragraph (a) of this section, no product required by this subpart to be inspected shall be moved, prior to inspection, from the port of arrival where first unloaded, and if arriving by water, from the wharf where first unloaded at such port, to any place other than the place designated in accordance with this subpart as the place where the same shall be inspected, and no product shall be conveyed in any manner other than in compliance with this subpart.

(c) Means of conveyance or outside containers in which any imported poultry product is moved, prior to inspection from the port or wharf where first unloaded in the United States, shall be sealed with official seals of the Department of Agriculture as prescribed in section 381.98 or otherwise identified as provided in this paragraph unless already sealed with Customs or consular seals in accordance with the Customs regulations. The containers shall be securely tied before being offered for sealing. Such seals shall be affixed by inspectors, or, if there is no inspector at such port, then by a Customs officer. In lieu of tying and sealing containers, the carrier or importer may furnish and attach to each outside container of product a warning notice on bright green paper, not less than 5 × 8 inches in size, containing the following legend in black type of a conspicuous size:

Notice

This container of poultry product must be delivered intact to an inspector of the Meat and Poultry Inspection Program, U.S. Department of Agriculture.

Warning

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond.

If the product is found to be acceptable upon inspection, the package will be marked "U.S. Inspected and Passed" and this warning notice defaced.

(d) No person shall affix, alter, detach, deface, or destroy any official seal of the Department of Agriculture except Customs officers or inspectors or as provided for in paragraph (f) of this section.

(e) No poultry product shall be removed from any means of conveyance or container sealed with an official seal of the Department of Agriculture, or bearing the official warning notice prescribed in this section, except under the supervision of an inspector or a Customs officer, or as provided for in paragraph (f) of this section.

(f) In case of a wreck or similar extraordinary emergency, the official seal of the Department of Agriculture on a car, truck, or other means of conveyance, may be broken by the carrier, and, if necessary, the articles may be reloaded into another means of conveyance for transportation to destination. In all such cases, the carrier shall immediately report the facts by telegraph to the Administration, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(g) The consignee, or his agent, shall furnish such facilities and shall provide such assistance for handling and marking poultry products offered for entry as the inspector may require.

Sec. 381.201 Means of conveyance and equipment used in handling imported poultry products to be maintained in sanitary condition.—Compartments of steamships, railroad cars, and other means of conveyance transporting any poultry product to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling any poultry product offered for entry into the United States, shall be maintained in a sanitary condition.

Sec. 381.202 Poultry products offered for entry; reporting of findings to Customs; handling of articles refused entry.—(a) Inspectors shall report their findings to the district director of Customs at the port where poultry products are offered for entry, and shall request the district director to refuse entry to all products which are marked or designated "U.S. Refused Entry" or otherwise are not in compliance with the regulations in this subpart. Unless such products shall be exported by the consignee within a time to be specified by the district director of Customs (usually 30 days), the consignee, within such specified time, shall cause the destruction of such products for human food purposes under the supervision of an inspector. If products are destroyed for human food purposes under the supervision of an inspector, he shall give prompt notice thereof to the district director.

(b) Consignees shall, at their own expense, return immediately, to the district director of Customs, in means of conveyance or containers sealed with the official seal of the Department of Agriculture, any product received by them under this subpart which is marked or designated "U.S. Refused Entry," or which in any respect does not comply with this subpart.

(c) Except as provided in section 381.200 (a) or (b), no person shall remove or cause to be removed from any place designated as the place of inspection, any poultry product which the regulations in this subpart require to be marked in any way, unless the same has been clearly and legibly marked in compliance with this subpart.

Sec. 381.203 Imported products; charges for storage, cartage and labor with respect to products which are refused entry.—All charges for storage, cartage, and labor with respect to any imported product which is refused entry pursuant to the regulations shall be paid by the owner or consignee, and, in default of such payment, shall constitute a lien against any other products imported thereafter by or for such owner or consignee.

Sec. 381.204 Marking of poultry products offered for entry.—Poultry products which upon inspection are found to be acceptable for entry into the United States shall be marked with the official inspection legend shown in section 381.102. Poultry products which are inspected and rejected shall be marked "U.S. Refused Entry" as shown in section 381.102. Such marks shall be applied to the shipping containers.

Sec. 381.205 Labeling of immediate containers of imported poultry products.—(a) Immediate containers of poultry products imported into the United States shall bear a label, printed in English showing in accordance with Subpart N of this part all information required by that section (except that the inspection mark and establishment number assigned by the foreign poultry inspection system and certified to the Inspection Service shall be shown instead of the official dressed poultry identification mark or other official inspection legend, and official establishment number); and in addition the label shall show the name of the country of origin preceded by the words "Product of," which statement shall appear immediately under the name of the product.

(b) The labels shall not be false or misleading in any respect.

(c) Labels for immediate containers of imported poultry products shall be submitted for approval in sketch form to the Labels and Packaging Staff, Meat and Poultry Inspection, Animal and Plant Health Inspection Service, USDA, Washington, D.C. 20250. Sketch labels shall be submitted with sufficient copies to provide two copies for the Washington office. After approval of the sketch labels, finished labels shall be submitted with sufficient copies to provide two copies for the Washington office, one copy for each port of entry and one copy for the foreign plant requesting the approval.

Sec. 381.206 Labeling of shipping containers of imported poultry products.—Shipping containers in which imported poultry products are shipped to the United States are required to bear in a prominent and legible manner the name of the product, the name of the country of origin, the foreign inspection system establishment number of the establishment in which the product was processed, and the inspection mark of the country of origin. Labeling on shipping containers shall be examined at the time of inspection in the United States and if found to be false or misleading, the product shall be refused entry.

Sec. 381.207 Small importations for consignee's personal use, display, or laboratory analysis.—Any poultry product (other than one which is forbidden entry by other Federal law or regulation) which is imported from any country in quantities of less than 50 pounds net weight, exclusively for the personal use of the consignee, or for display or laboratory analysis by the consignee, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food; and which is not adulterated and contains no substance not permitted by the Act or regulations may be allowed entry into the United States without a foreign inspection certificate, and such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part, except as provided in section 381.199(c): *And provided,* That the Department may with respect to any specific importation, require that the consignee certify that such product is exclusively for the personal use of said consignee, or for display or laboratory analysis by said consignee, and not for sale or distribution.

Sec. 381.208 Imported poultry products to be handled and transported as domestic; entry into official establishments; transportation.—(a) All imported poultry products, after entry into the United States in compliance with this subpart, shall be deemed and treated and, except as provided in sections 381.207, shall be handled and transported as domestic products, and shall be subject to the provisions of this part and to the provisions of the Poultry Products Inspection Act and the Federal Food, Drug, and Cosmetic Act.

(b) Imported poultry products inspected, passed, and marked in accordance with this subpart may, subject to the provisions of the regulations, be taken into official establishments and be mixed with or added to poultry products that are inspected and passed or exempted from inspection in such establishments.

(c) Imported poultry products which have been inspected, passed, and marked under this subpart may be transported in commerce, only upon compliance with the applicable regulations.

Sec. 381.209 Returned United States inspected and marked poultry products; exemption.—Poultry products which have been inspected and passed by the U.S. Department of Agriculture and are so marked, and are returned from foreign countries, may be imported if they are not adulterated or misbranded at the time of such return. Such products are exempted from further requirements under this part. Such returned shipments shall be reported to the Administrator by letter prior to arrival at the United States port of entry.

INSPECTION CERTIFICATE REQUIRED FOR CLEARANCE OF ANY VESSEL HAVING ON BOARD CATTLE, SHEEP, SWINE, OR GOATS FOR EXPORT

United States Code, title 21, section 82:

Sec. 82 No clearance to vessels carrying cattle for export without inspector's certificate.—No clearance shall be given to any vessel having on board cattle, sheep, swine, or goats for export to a foreign country until the owner or shipper of such cattle, sheep, swine, or goats has a certificate from the inspector authorized to be appointed, stating that the cattle, sheep, swine, or goats are sound and healthy, or unless the Secretary of Agriculture shall have waived the requirement of such certificate for export to the particular country to which such cattle, sheep, swine, or goats are to be exported. (Mar. 4, 1907, ch. 2907, 34 Stat. 1263.)

IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS

Regulations of the Animal Inspection and Quarantine Division, Agricultural Research Service, Department of Agriculture, relating to the importation of livestock and other animals into the United States, Code of Federal Regulations, title 9, sections 92.1-92.40 as amended:

General Provisions

Sec. 92.1 Definitions.—Whenever in this part the following terms are used unless the context otherwise requires, they shall be construed, respectively, to mean:

(a) *Department.* The United States Department of Agriculture.

(b) *Division.* The Animal Inspection and Quarantine Division.

(c) *Director of Division, Director.*

(d) *Inspector.* An inspector of the Division.

(e) *Animals.* Cattle, sheep, goats, other ruminants, swine, horses, asses, mules, zebras, dogs, and poultry.

(f) *Cattle.* Animals of the bovine species.

(g) *Ruminants.* All animals which chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes.

(h) *Swine.* The domestic hog and all varieties of wild hogs.

(i) *Horses.* Horses, asses, mules, and zebras.

(j) *Poultry.* Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl of all ages, including eggs for hatching.

(k) *Accredited areas.* Areas in Canada in which the percentage of cattle infected with tuberculosis is officially declared by the Canadian Government to be less than one-half of 1 percent.

(l) *Restricted areas.* Areas in Canada that are in process of becoming accredited as defined in paragraph (k) of this section.

(m) *Recognized slaughtering center.* Any point where slaughtering operations are regularly carried on and where Federal, State, or local inspection approved by the Bureau, is maintained.

(n) *Immediate slaughter.* Consignment from the port of entry to some recognized slaughtering center and slaughter thereat within 2 weeks from the date of entry.

(o) *Communicable disease.* Any contagious, infectious, or communicable disease of domestic livestock, poultry or other animals.

(p) *Fever tick.* Boophilus annulatus, including, but not limited to, the varieties Americana and Australis.

(q) *Permitted dip.* A dip permitted by the Bureau to be used in the official dipping of cattle and horses for fever ticks and for dipping cattle and sheep for scabies.

(r) *Brucellosis-certified areas.* Areas in Canada in which the percentage of cattle affected with brucellosis has been officially determined by the Canadian Government not to exceed one percent and the percentage of herds in which brucellosis is present has been similarly determined not to exceed five percent.

(s) *Western provinces of Canada.* Manitoba, Saskatchewan, Alberta, and British Columbia.

Sec. 92.2 General prohibition.—No animal or product subject to the provisions of this part shall be imported or brought into the United States except in accordance with the provisions of this part and Part 94 of this subchapter; nor shall any such animal or product be handled or moved after physical entry into the United States and before final release from quarantine or any other form of governmental detention except in compliance with such regulations: *Provided, however,* That the provisions of this section, secs. 92.3 through 92.5, 92.7 through 92.9, 92.11 through 92.13, 92.15, and 92.16 shall not apply to importations of poultry into the United States Virgin Islands.

Sec. 92.3 Ports designated for the importation of animals.—(a) *Ocean ports.* The following ports are hereby designated as quarantine stations and all animals shall be entered through said stations, except as provided in paragraphs (b), (c), and (d) of this section, viz: Boston, Massachusetts; New York, New York; Baltimore, Maryland; Jacksonville, Miami, and Tampa, Florida; San Juan, Puerto Rico; New Orleans, Louisiana; Galveston, Texas; San Diego, Los Angles, and San Francisco, California; Portland, Oregon; Tacoma and Seattle, Washington; and Honolulu, Hawaii.

(b) *Canadian border ports.* The following ports in addition to those specified in paragraph (a) of this section are designated as quarantine stations for the entry of animals from Canada: Eastport, Calais, Vanceboro, Houlton, Monticello, Bridgewater, Fort Fairfield, Limestone, Van Buren, Madawaska, Fort Kent, Jackman and Holeb, Maine; Beecher Falls (Canaan), Island Pond, Derby Line, North Troy, Newport, Richford, St. Albans, Highgate Springs, and Alburg, Vermont; Rouses Point, Mooers Junction, Chateaugay, Malone, Fort Covington, Hogansburg, Rooseveltown, Waddington, Ogdensburg, Morristown, Alexandria Bay, Charlotte, Niagara Falls, and Buffalo, New York; Detroit, Port Huron, and Sault Ste. Marie, Michigan; Noyes, Minnesota; Pembina and Portal, North Dakota; Sweetgrass, Montana; Eastport and Porthill, Idaho; Spokane, Laurier, Oroville, Nighthawk, Sumas, Blaine, and Lynden, Washington; and Juneau and Skagway, Alaska.

(c) *Mexican border ports.* The following ports in addition to those specified in paragraph (a) of this section are designated as quarantine stations for the entry of animals from Mexico: Brownsville, Hidalgo, Rio Grande City, Roma, Laredo, Eagle Pass, Del Rio, Presidio, and El Paso, Texas; Douglas, Naco, Nogales, and San Luis, Arizona; and Calexico and San Ysidro, California.

(d) *Special ports.* Charlotte Amalie, St. Thomas, and Christiansted, St. Croix, in the United States Virgin Islands, are hereby designated as quarantine stations for the entry of ruminants and swine from the British Virgin Islands into the United States Virgin Islands for immediate slaughter.

(e) *Designation of other ports.* The Secretary of the Treasury has approved the designation as quarantine stations of the ports specified in this section. In special cases other ports may be designated as quarantine stations under this section by the Director of Division with the concurrence of the Secretary of the Treasury.

Sec. 92.4 Import permits for ruminants, swine, and poultry and for animal semen.—(a) *Application for permit.* (1) For ruminants, swine, poultry, and animal semen intended for importation from any part of the world, except as otherwise provided in secs. 92.19, 92.27, and 92.31, the importer shall first apply for and obtain from the Division an import permit. The application shall specify the name and address of the importer, the species, breed, number or quantity, purpose of importation, the country of origin, the port of embarkation in the foreign country, the mode of transportation, route of travel, the port of entry in the United States, and the proposed date of arrival of the animals or animal semen to be imported, and the name of the person to whom the animals or animal semen will be delivered and the location of the place in the United States to which delivery will be made from the port of entry. Additional information may be required in the form of certificates concerning specific diseases to which the animals are susceptible, as well as vaccinations or other precautionary treatments to which the animals or animal semen have been subjected. Notice of any such requirement will be given to the applicant in each case.

(2) An application for permit to import will be denied for domestic ruminants or swine, or semen from ruminants or swine, from any country where it has been declared, under section 306 of the Act of June 17, 1930, that foot-and-mouth disease or rinderpest has been determined to exist, except as provided in paragraph (d) of this section.

(3) An application for permit to import ruminants, swine, poultry, or animal semen may also be denied because of: Communicable disease conditions in the area or country of origin, or in a country where the shipment has been or will be held or through which the shipment has been or will be transported; deficiencies in the regulatory programs for the control or eradication of animal diseases and the unavailability of veterinary services in the above mentioned countries; the importer's failure to provide satisfactory evidence concerning the origin, history, and health status of the animals or animal semen; the lack of satisfactory information necessary to determine that the importation will not be likely to transmit any communicable disease to livestock or poultry of the United States; or any other circumstances which the Director believes require such denial to prevent the dissemination of any communicable disease of livestock or poultry into the United States.

(b) *Permit.* When a permit is issued, the original and two copies will be sent to the importer. It shall be the responsibility of the importer to forward the original permit and one copy to the shipper in the country of origin, and it shall also be the responsibility of the importer to insure that the shipper presents the copy of the permit to the carrier and makes proper arrangements for the original permit to accompany the shipment to the specified U.S. port of entry for presentation to the collector of customs. Animals and animal semen for which a permit has been issued will be received at the specified port of entry within the 14-day period prescribed in the permit, after which time the permit shall be void. Ruminants, swine, poultry, and animal semen for which a permit is required by these regulations will not be eligible for entry if a permit has not been issued; if shipment is from any port other than the one designated in the permit; if arrival in the United States is at any port other than the one designated in the permit; or if the animals or semen are not handled as outlined in the application for the permit and as specified in the permit issued.

(c) *Wild ruminants and wild swine from countries where foot-and-mouth disease or rinderpest exists.* (1) Wild ruminants and wild swine originating in the countries designated in Part 94 of this subchapter as countries in which foot-and-mouth disease or rinderpest exists may be carriers of such diseases even though the animals do not show clinical evidence of the diseases. In view of these circumstances and in order to prevent the introduction and disemination of foot-and-mouth disease or rinderpest and protect the livestock of the United States, permits for the importation of wild ruminants, such as, but not limited to, giraffes, deer, and antelopes, and of wild swine, will be issued only if such animals are intended for exhibition purposes in a zoological park previously approved by the Director of Division in accordance with the standards specified in subparagraph (2) of this paragraph and if the operator of such approved zoological park and the importer, if such operator and importer are different parties, have entered into the agreement set forth in subparagraph (3) of this paragraph with the Division for the maintenance and handling of such wild ruminants and wild swine in the manner specified in the agreement to prevent the introduction and dissemination of communicable diseases. For purposes of this paragraph "zoological park" means a zoo, park or other place maintained for the exhibition of live animals for recreational or educational purposes. The New York port of entry is the only port at which facilities are available which are adequate for the quarantining of wild ruminants and wild swine. Accordingly, permits issued for the importation of such wild animals will require that the animals be imported through the port of New York and quarantined at that port. The Director of Division may cancel such a permit when he finds that any provision of this section or any other provision of the regulations has not been or is not being complied with.

(2) Approval of a zoological park for the receipt and maintenance of imported animals as described in this paragraph, shall be on the basis of an inspection, by an authorized representative of the Department, of the physical facilities of the establishment and its methods of operation. Standards for acceptable physical facilities shall include satisfactory pens, cages, or enclosures in which the animals can be maintained so as not to be in contact with the general public and free from contact with domestic livestock; natural or established drainage from the zoological park which will avoid contamination of land areas where domestic livestock are kept or with which domestic livestock may otherwise come in contact; provision for the disposition of manure, other wastes, and dead ruminants and swine within the zoological park; and other reasonable facilities considered necessary to prevent the dissemination of diseases from the zoological park. The operator of the zoological park shall have available the services of a full-time or part-time veterinarian, or a veterinarian on a retainer basis, who shall make periodic examinations of all animals maintained at the zoological park for evidence of disease; who shall make a post-mortem examination of each animal that dies; and who shall make a prompt report of suspected cases of contagious or communicable diseases to appropriate state or federal livestock sanitary officials.

(3) Prior to the issuance of an import permit under this section, the operator of the approved zoological park to which the animals are to be consigned, and the importer of the animals, if such operator and importer are different parties, shall execute an agreement covering each animal or group of animals for which the import permit is requested. The agreement shall be in the following form:

AGREEMENT FOR THE IMPORTATION, QUARANTINE AND EXHIBITION OF CERTAIN WILD RUMINANTS AND WILD SWINE

________, operator(s) of the zoological park known as
________ located at ________ and
(Name) (City and state)
________ hereby request a permit for the
(Importer)
importation of ________ for exhibition
(Number and kinds of animals)
purposes at the said zoological park, said foot-and-mouth disease or rinderpest exists and being subject to restrictions under regulations contained in Part 92, Title 9, Code of Federal Regulations.

In making this request, it is understood and agreed that:

1. The animals for which an import permit is requested will be held in isolation at a port of embarkation in the country of origin, approved by the Director of Division as a port having facilities which are adequate for maintaining wild animals in isolation from all other animals and having veterinary supervision by officials of the country of origin of the animals. Such animals will be held in such isolation for not less than 60 days under the supervision of the veterinary service of that country to determine whether the animals show any clinical evidence of foot-and-mouth disease, rinderpest, or other communicable disease and to assure that the animals will not have been exposed to such a disease within the 60 days next before their exportation from that country.

2. Shipment will be made direct from such port of embarkation to the port of New York as the port of entry in this country. If shipment is made by ocean vessel the animals will not be unloaded in any foreign port en route. If shipment is made by air, the animals will not be unloaded at any port or other place of landing except at a port approved by the Director of Division as a port not located in a country where rinderpest or foot-and-mouth disease exists or as a port in such a country having facilities and inspection adequate for maintaining wild animals in isolation from all other animals.

3. No ruminants or swine will be aboard the transporting vehicle, vessel or aircraft except those for which an import permit has been issued.

4. The animals will be quarantined for not less than 30 days in the Department's Animal Quarantine Station in Clifton, New Jersey.

5. Upon release from quarantine the animals will be delivered to the zoological park named in this agreement to become the property of the park and they will not be sold, exchanged or removed from the premises without the prior consent of the Animal Inspection and Quarantine Division.

____
(Signature of Importer)

Subscribed and sworn to before me this ________ day of ________, 19____

____
(Title or designation)

____
(Name of zoological park)

By ________
(Signature of officer of zoological park)

____
Title of Officer

Subscribed and sworn to before me this ________ day of ________, 19____

____
(Title or designation)

(d) *Animal semen from countries where rinderpest or foot-and-mouth disease exists.* Importation of semen of ruminants or swine, originating in any country designated in paragraph (a) of section 94.1 of this subchapter as a country where rinderpest or foot-and-mouth disease is determined to exist, is prohibited, except that semen from ruminants or swine originating in such a country may be offered for entry into the United States at the port of New York and later released from such port provided the following conditions have been fulfilled:

(1) The importer has applied for and obtained an import permit for the semen in accordance with the provisions of this section and related requirements concerning application therefor, which permit is in effect at the time of importation, and has deposited with the Department prior to the issuance of the permit sufficient funds so as to be available for defraying estimated expenses to be incurred in connection with the proposed semen importation and following the issuance of the permit has deposited such other amounts as may be required from time to time to defray unanticipated costs or increased expenses. Such an import permit may be denied for the reasons specified in subparagraph (a) (3) of this section. Furthermore, an import permit will be revoked unless the following conditions have been complied with:

(i) The donor animal shall have been inspected on the farm of origin by a veterinarian of the United States Department of Agriculture who, in cooperation with the veterinary service of the country of origin of the donor animal, shall have determined, insofar as possible, that the donor animal was never infected with rinderpest or foot-and-mouth disease; that the donor animal was never on a farm or other premise where rinderpest or foot-and-mouth disease then existed; that no animal on the farm of origin which was susceptible to the virus of rinderpest or foot-and-mouth disease was exposed to either disease during the 12 months immediately prior to the date of inspection of the donor animal; that the donor animal has never been vaccinated against rinderpest or foot-and-mouth disease; and that the donor animal was free from evidence of other communicable disease;

(ii) The donor animal shall have been permanently identified in a manner satisfactory to a veterinarian of this Department; blood samples from such donor animal for virus neutralization and fluorescent antibody tests or other tests shall have been collected by a veterinarian of the United States Department of Agriculture and transported by air to the New York Port Veterinarian for delivery to the Plum Island Animal Disease Laboratory of the United States Department of Agriculture in containers approved by a veterinarian of this Department, sealed in the country of origin by a veterinarian of this Department; and pending the results of the tests, the donor animal shall have been kept in isolation on the farm of origin or other acceptable location under the supervision of a veterinarian of this Department, and during such isolation period no animal susceptible to rinderpest or foot-and-mouth disease shall have been permitted to enter such farm or location and no other source of exposure to rinderpest or foot-and-mouth disease shall have been present;

(iii) The blood samples from the donor animal shall have been negative to the virus neutralization and fluorescent antibody tests made at the Plum Island Animal Disease Laboratory of the United States Department of Agriculture and to any other test for rinderpest, foot-and-mouth disease or other communicable disease prescribed by the Director of Division;

(iv) Following isolation, preliminary veterinary inspection, and testing while the donor animal was on the farm of origin or other acceptable location, the donor animal shall have been transported, under such conditions as the Department veterinarian prescribed to prevent exposure of the animal to the virus of rinderpest or foot-and-mouth disease, to an isolation facility properly equipped for the necessary care and maintenance of the donor animal and for the proper collection and handling of semen, approved by a veterinarian of this Department and under the direct supervision of such veterinarian;

(v) The semen of the donor animal shall have been collected at the appoved isolation facility under the direct supervision of a veterinarian of this Department; and all handling procedures, such as examination, dilution, refrigeration, and preparation of the semen for shipment, shall have been under the direct supervision of a veterinarian of this Department.

(2) The semen collected at the approved isolation facility shall have been at all times, except during air transportation to New York, in the custody of a veterinarian of this Department.

(3) The semen for which an import permit has been issued shall have been transported by air to the port of New York in liquid nitrogen containers approved by a veterinarian of this Department; sealed in the country of origin by a veterinarian of this Department; and accompanied by a statement by such veterinarian showing the identification of the donor animal and the dates the semen was collected, along with a certificate regarding the health status of the donor animal as of the date of shipment of the semen to the port of New York. All semen received at the port of New York shall be held under quarantine in liquid nitrogen storage at such port in the custody of the Animal Inspection and Quarantine Division until released or otherwise disposed of as provided in this section. Quarantine of the semen at the port of New York shall be for a minimum period of 60 days in facilities and under conditions prescribed by the Director of Division, during which time additional tests shall be conducted as provided in subparagraphs (4), (5), and (6) of this paragraph.

(4) The donor animal shall have been retained at the approved isolation facility in the country where the semen was collected for at least 60 days after such collection; and after such 60-day retention period, blood samples shall have been collected from the donor animal by a veterinarian of this Department for virus neutralization and fluorescent antibody tests at the Plum Island Animal Disease Laboratory of the United States Department of Agriculture, and any other tests as required by the Director of Division.

(5) While the imported semen is in storage under quarantine at the port of New York, a sample of each lot of semen collected from the donor animal shall have been tested at the Plum Island Laboratory. Such test shall consist of injecting not less than 10 percent of the volume of each lot of semen into test animals which are susceptible to rinderpest or foot-and-mouth disease. The Director

of Division may also require such other tests as he deems necessary to determine whether the semen harbors the virus of rinderpest or foot-and-mouth disease, or any other communicable disease.

(6) If it is determined that the requirements set forth in this paragraph have been complied with and there are no indications that the donor animal or the semen from the donor animal harbors the virus of rinderpest or foot-and-mouth disease or any other communicable disease and if the donor animal, blood samples from the donor animal, and semen samples from the donor animal are negative to all other tests required, the semen shall be released for shipment to the consignee listed by the importer; otherwise the semen shall be destroyed or disposed of as the Director of Division may direct.

Sec. 92.5 Certificate for ruminants, swine, and poultry.—(a) *Ruminants and swine.* (1) All ruminants and swine offered for importation from any part of the world except as provided in sections 92.20, 92.21, 92.22, 92.28, 92.29, 92.35, 92.36, 92.37, and 92.40 shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that such animals have been kept in said country at least 60 days immediately preceding the date of movement therefrom and that said country during such period has been entirely free from foot-and-mouth disease, rinderpest, contagious pleuro-pneumonia, and surra: *Provided,* however, That certificates for wild ruminants or wild swine for exhibition purposes need specify freedom from the said diseases of the district of origin only: And provided further, That in the case of sheep, goats, and swine the certificate, as far as it relates to contagious pleuro-pneumonia, may specify freedom from such disease of the district of origin only. For domestic swine the certificate shall also show that for 60 days immediately preceding the date of movement from the premises of origin no hog cholera, swine plague, or erysipelas has existed on such premises or on adjoining premises.

(2) The certificate accompanying sheep and goats offered for importation from any part of the world, except as provided in sections 92.21, 92.28, and 92.36, shall, in addition to the statements required by subparagraph (1) of this paragraph, state: (i) That the said salaried veterinary officer has inspected such sheep and goats on the premises of origin and found them free of evidence of the disease known as scrapie, and of any other communicable disease; (ii) that, as far as it has been possible to determine, such animals have not been exposed to any such disease during the preceding 60 days; (iii) that, as far as can be determined, the disease known as scrapie has not existed in any district in which such sheep or goats were located during the three years immediately prior to shipment to the United States; and (iv) that each of such animals is not the progeny of a sire or dam that has been affected with scrapie.

(3) If ruminants or swine are unaccompanied by the certificate as required by subparagraphs (1) and (2) of this paragraph, or if such animals are found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry and shall be handled thereafter in accordance with the provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined, or otherwise disposed of as the Director of Division may direct.

(b) *Poultry.* All poultry, except eggs for hatching, offered for importation from any country of the world except as provided in sections 92.26, 92.38, and 92.40, shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that such poultry and thie flock or flocks of origin were inspected on the premises of origin immediately before the date of movement from such country and that they were then found to be free of evidence of pullorum disease (bacillary white diarrhea) and other communicable diseases; and that, as far as it has been possible to determine, they were not exposed to any such disease common to poultry during the 60 days immediately preceding the date of such movement. Certificates for such poultry 60 days of age or older shall also state that the poultry have been kept in the country from which they are offered for importation for at least 60 days immediately preceding the date of movement therefrom and that, as far as it has been possible to determine, no case of European fowl nest (fowl plague) or Newcastle disease (avian pneumoencephalitis) occurred in the locality or localities where the poultry were kept during such period. All eggs for hatching offered for importation from any part of the world except as provided in sections 92.26 and 92.38 shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that the flock or flocks of origin were found upon inspection to be free from evidence of pullorum disease (bacillary white diarrhea) and other communicable disease and that as far as it has been possible to determine such flock or flocks were not exposed to any such disease common to poultry during the preceding 60 days.

Sec. 92.6 Diagnostic tests.—(a) *Tuberculosis and brucellosis tests of cattle.* Except as provided in sections 92.20 and 92.35 (b) and (c) all cattle offered for importation from any part of the world, except for immediate slaughter, shall be accompanied by a satisfactory certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals have been tested for tuberculosis and brucellosis with negative results within 30 days of the date of their exportation: *Provided,* That the brucellosis test will not be required for steers, spayed heifers, or any cattle less than 6 months old. The said certificates shall give the dates and places of testing, names of the consignor and consignee, and a description of the cattle, with breed, ages, and markings.

(b) *Tuberculosis and brucellosis tests of goats.* Except as provided in sections 92.21 and 92.36 (b), all goats offered for importation, except for immediate slaughter, shall be accompanied by a satisfactory certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals have been tested for tuberculosis and brucellosis with negative results within 30 days of the date of their exportation. The said certificate shall give the dates and places of testing, method of testing, names of consignor and consignee, and a description of the animals, including breed, ages, markings, and tattoo and eartag numbers.

(c) *Further tests during quarantine.* Animals that have been tested as prescribed in the paragraphs (a) and (b) of this section and that are subject to quarantine at the port of entry as provided in sec. 92.11, shall be retested during the last 10 days of the quarantine period under the supervision of a veterinary inspector, by one or more of the methods approved by the Director of Division.

Sec. 92.7 Declaration and other documents for animals and animal semen.—(a) The certificates, declarations, and affidavits required by the regulations in this part shall be presented by the importer or his agent to the collector of customs at the port of entry, upon arrival of animals or animal semen at such port, for the use of the veterinary inspector at the port of entry.

(b) For all animals and animal semen offered for importation, the importer or his agent shall first present two copies of a declaration which shall list the port of entry, the name and address of the importer, the name and address of the broker, the origin of the animals or animal semen, the number, breed, species, and purpose of the importation, the name of the person to whom the animals or animal semen will be delivered, and the location of the place to which such delivery will be made.

Sec. 92.8 Inspection at port of entry. Inspection shall be made at the port of entry of all horses, ruminants, swine, and poultry offered for importation from any part of the world except as provided in sections 92.24, 92.25, 92.30, and 92.33. However, the Director of Division, when he finds that such action may be taken without endangering the poultry industry of the United States, may waive inspection at the port of entry or provide for inspection at some other point with respect to importations from Canada of eggs for hatching, newly hatched poultry and poultry consigned for immediate slaughter. All animals found to be free from communicable disease and not to have been exposed thereto within 60 days prior to the offer for importation shall be admitted subject to the other provisions in this part. Animals found to be affected with a communicable disease or to have been exposed thereto within 60 days prior to the offer for importation shall be refused entry, except as provided in sec. 92.28 (c). Ruminants and swine refused entry shall be handled thereafter in accordance with the provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined or otherwise disposed of as the Director of Division may direct. Horses and poultry refused entry, unless exported within a time fixed in each case by the Director of Division, shall be disposed of as said Director may direct. Such portions of the transporting vessel, and of its cargo, as have been exposed to any such animals or their emanations shall be disinfected in such manner as may be considered necessary by the inspector in charge at the port of entry, before the cargo is allowed to land.

Sec. 92.9 Articles accompanying animals. No litter or manure, fodder or other aliment, nor any equipment such as boxes, buckets, ropes, chains, blankets, or other things used for or about animals governed by the regulations in this part, shall be landed from any conveyance except under such restrictions as the inspector in charge at the port of entry shall direct.

Sec. 92.10 Movement from conveyances to quarantine station. Platforms and chutes used for handling imported ruminants or swine shall be cleaned and disinfected under Division supervision after being so used. The said animals shall not be unnecessarily moved over any highways nor allowed to come in contact with other animals, but shall be transferred from the conveyance to the quarantine grounds in boats, cars, or vehicles approved by the inspector in charge at the port of entry. Such cars, boats, or vehicles shall be cleaned and disinfected under Division supervision immediately after such use, by the carrier moving the same. The railway cars so used shall be either cars reserved for this exclusive use or box cars not otherwise employed in the transportation of animals or their fresh products. When movement of the aforesaid animals upon or across a public highway is unavoidable, it shall be under such careful supervision and restrictions as the inspector in charge at the port of entry and the local authorities may direct.

Sec. 92.11 Periods of quarantine.—(a) *Cattle.* (1) Cattle imported from any part of the world except Canada, countries of Central America and the West Indies, and Mexico shall be quarrantined for not less than 30 days, counting from the date of arrival at the port of entry.

(2) Cattle imported from Canada, countries of Central America and the West Indies, and Mexico shall be subject to the provisions of sections 92.20, 92.28, 92.34, and 92.35, respectively.

(b) *Other ruminants and swine.* (1) Swine and ruminants other than cattle imported from any part of the world except Canada, countries of Central America and the West Indies, and Mexico shall be quarantined for not less then 15 days counting from the date of arrival at the port of entry. During their quarantine, wild ruminants and wild swine shall be subject to such inspections, disinfections, blood tests, or other tests as may be required by the Director of Division to determine their freedom from disease and the infection of disease.

(2) Sheep and goats, and swine imported from Canada shall be subject to the provisions of sections 92.21 and 92.22, respectively. Ruminants and swine imported from countries of Central America and the West Indies shall be subject to the provisions of sections 92.28 and 92.29, respectively. Swine and ruminants other than cattle imported from Mexico shall be subject to the provisions of sections 92.34, 92.36, and 92.37.

(c) *Poultry.* Poultry 60 days of age or older imported from any part of the world except Canada and except as provided in sec. 92.34 (b) shall be quarantined for not less than 15 days, counting from the date of arrival at the port of entry. During their quarantine such poultry shall be subject to such inspections, disinfections, blood tests or other tests as may be required by the Director of Division to determine their freedom from disease or the infection of disease. Any other poultry may be quarantined at the port of entry for such period as the Director of Division may require.

Sec. 92.12 Feed and attendants for animals in quarantine.—(a) Importers of animals subject to quarantine under the regulations in this part shall arrange for their care, feed, and handling from the time of unloading at the port of entry to the time of release from quarantine. At ports where facilities are not maintained by the Branch, importers shall provide suitable facilities for the quarantine of such animals, subject in all cases to the approval of the inspector in charge at the port of entry. Each owner, or his agent, shall give satisfactory assurance to the inspector prior to the time of quarantine that such provision will be made. Owners shall keep clean, to the satisfaction of such inspector, the sheds and yards occupied by their animals. If for any cause owners of animals refuse or neglect to arrange for their care, feed, and handling, the service may be furnished by the branch in the same manner as though the owner, or his agent, had made arrangements for such service as provided by paragraph (b) of this section, or the animals may be disposed of as the Director of Division may direct.

(b) At a port where quarantine facilities are maintained by the branch, the importer, or his agent, may arrange with the inspector in charge for care, feed, and handling of animals from the time they arrive at the quarantine station for the port until the time of release from quarantine. The importer, or his agent, must request such service in writing and agree to reimburse the branch or pay in advance for the cost thereof, as may be required, and waive all claim against the branch or any employee of the branch for damages which may arise from such service. The Director of Division may prescribe reasonable rates for the service provided under this paragraph.

(c) Amounts collected from importers for service rendered shall be deposited so as to be available for defraying the expenses involved in this service.

Sec. 92.13 Quarantine stations, visiting restricted; sales prohibited.—Visitors shall not be admitted to the quarantine enclosure during any time that animals are in quarantine except that an importer (or his accredited agent or veterinarian) may be admitted to the yards and buildings containing his quarantined animals at such intervals as may be deemed necessary, and under such conditions and restrictions as may be imposed, by the inspector in charge of the quarantine station. On the last day of the quarantine period, owners, officers or registry societies, and others having official business or whose services may be necessary in the removal of the animals may be admitted upon written permission from the said inspector. No exhibition or sale shall be allowed within the quarantine grounds.

Sec. 92.15 Milk from quarantined animals.—Milk or cream from animals quarantined under the provisions of this part shall not be used by any person other than those in charge of such animals, nor be fed to any animals other than those within the same enclosure, without permission of the inspector in charge of the quarantine station and subject to such restrictions as he may consider necessary in each instance. No milk or cream shall be removed from the quarantine premises except in compliance with all State and local regulations.

Sec. 92.15 Manure from quarantined animals.—No manure shall be removed from the quarantine premises until the release of the animals producing same.

Sec. 92.16 Appearance of disease among animals in quarantine.—If any contagious disease appears among animals during the quarantine period special precautions shall be taken to prevent spead of the infection to other animals in the quarantine station or to those outside the grounds. The affected animals shall be disposed of as the Chief of Branch may direct, depending upon the nature of the disease.

Sec. 92.17 Horses; accompanying forage and equipment.—Horses offered for importation from any part of the world except Mexico, and countries of Central America and the West Indies and except as provided in sec. 92.24 shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals described in the certificate have been in the said country during the preceding 60 days, and that as far as it has been possible to ascertain no case of dourine, glanders, surra, or epizootic or ulcerative lymphangitis has occurred in the locality or localities where the horse or horses have been kept during such period. Horses arriving at a port of entry unaccompanied by the aforesaid certificate, if otherwise eligible for importation, may upon permission first secured from the Director of Division be landed subject to such quarantine and blood tests or other tests as he may direct. Even though accompanied by said certificate they may be so quarantined and tested when deemed necessary by the Director of Division. Upon inspecting horses at the port of entry and before permitting them to land, the inspector may require their disinfection and the disinfection of their accompanying equipment as a precautionary measure against the introduction of foot-and-mouth disease or any other disease dangerous to the livestock of the United States. When no disease is discoverable in an importation of horses, the hay, straw, or other forage accompanying them may remain on board the ship to be returned: *Provided*, That in the case of a vessel carrying cattle, sheep, other ruminants, or swine from the United States on the return voyage, such material shall be stored in the vessel in a place and manner approved by the said inspector and shall not be used in the feeding or bedding of animals exported.

Sec. 92.18 Dogs for handling livestock. Collie, Shepherd, and other dogs imported from any part of the world except Canada, Mexico, and countries of Central America and the West Indies which are to be used in the handling of sheep or other livestock, shall be inspected and quarantined at the port of entry for a sufficient time to determine their freedom from the tapeworm, Taenia coenurus. If found to be infested with such tapeworm they shall be properly treated under the supervision of a veterinary inspector at the port of entry until they are free from the infestation.

Canada[1]

Sec. 92.19 Import permit and declaration for animals and animal semen.—(a) For ruminants, swine, poultry, and animal semen intended for importation from Canada, the importer shall first apply for and obtain from the Division an import permit as provided in sec. 92.4: *Provided*, That an import permit is not required for poultry offered for entry at a land border port designated in sec. 92.3(b); and *Provided further*, That an import permit is not required for a ruminant or swine offered for entry at a land border port designated in sec. 92.3(b) if such animal: (1) Was born in Canada or the United States, and (2) has been in no country other than Canada or the United States, and (3) has not, during the preceding 60 days, been corralled, pastured, or held with, or bred by, on inseminated with semen from, any ruminants or swine for which a permit would be required under this part, and (4) is not pregnant as a result of having been bred by, or artificially inseminated with semen from, a ruminant or swine for which a permit would be required under this part.

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[1] Importations from Canada shall be subject to Sections 92.19 to 92.26, inclusive, in addition to other sections in this part which are in terms applicable to such importations.

(b) For all animals and animal semen offered for importation from Canada, the importer or his agent shall present two copies of a declaration as provided in sec. 92.7.

Sec. 92.20 Cattle from Canada.—(a) *Health certificates; detention at port of entry.*—Cattle offered for importation from Canada shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that said cattle have been inspected and found to be free from any evidence of communicable disease and that, as far as can be determined, they have not been exposed to any such disease during the preceding 60 days. Any such cattle may be detained at the port of entry and there subjected to such tests as may be required by the Director of Division and the importer shall be responsible for the care, feeding, and handling of such cattle during the period of detention.

(b) *Tuberculin-test certificates.* Importations of cattle from Canada, for purposes other than immediate slaughter as provided in sec. 92.33, shall be in compliance with the following conditions and requirements:

(1) Cattle from Canadian-listed tuberculosis-free accredited herds shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be from such herds and that said herds have been tuberculin tested within 1 year of the date of importation. The date of such tuberculin test shall be shown on the certificate.

(2) Cattle from herds in accredited areas in Canada, other than accredited herds, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be from herds in such areas and that the animals offered for entry have been tuberculin tested with negative results within 30 days preceding their offer for entry. However, cattle from herds in such areas—other than range herds—in which one or more reactors to the tuberculin test have been disclosed shall not be imported until the said herds have reached full tuberculosis-free status under Canadian regulations.

(3) Cattle from herds in restricted areas in Canada—other than range cattle and cattle from accredited herds—shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing (i) that they have been tuberculin tested with negative results within 30 days preceding their offer for entry, (ii) that all cattle in the herd or herds from which the animals proceed have been tuberculin tested with negative results not more than 12 months nor less than 90 days before the date of the offer for entry, and (iii) that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of said herd tests. However, cattle from herds in such areas—other than range herds—in which one or more reactors to the tuberculin test have been disclosed shall not be imported until the said herds have reached full tuberculosis-free status under Canadian regulations.

(4) Range cattle[2] shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be range cattle and that they have been tuberculin tested with negative results within 30 days preceding their offer for entry.

(5) No cattle other than range cattle or those from accredited herds shall be imported from areas in Canada that are neither restricted nor accredited under Canadian regulations, except for immediate slaughter as provided in sec. 92.23.

(c) *Brucellosis test or vaccination certificates.*—Importations from Canada of cattle six months or older, except steers and all cattle for immediate slaughter, shall be in compliance with the following conditions and requirements:

(1) Cattle from herds designated as brucellosis-free listed herds by the Canadian Government or cattle from herds not known to be affected in brucellosis-certified areas in Canada, except as provided in subparagraph (2) or (4), shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be from such herds and that the cattle offered for entry have been tested for brucellosis with negative results within 30 days preceding their offer for entry. If one or more reactors or suspects are disclosed in such a herd as a result of a brucellosis test at any time, cattle from such herd shall not be imported into the United States unless after such test the cattle offered for entry, and the herd, have been tested and such cattle are accompanied by a certificate in accordance with subparagraph (3) or the herd has reached full status as a brucellosis-free herd under Canadian regulations.

(2) Cattle of the beef breeds raised under range conditions in the western provinces of Canada, except as provided in subparagraph (4), shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be such range cattle of the beef breeds and that they have been tested for brucellosis with negative results within 30 days preceding their offer for entry.

(3) All other cattle from Canada, except as provided in subparagraph (4), shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing:

(i) that all cattle in the herd or herds from which the animals originate (except steers, other cattle under six months of age, and official vaccinates under 30 months of age) have been tested for brucellosis with negative results not more than three months preceding the offer for entry;

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[2] Cattle of the beef breeds raised under range conditions in the western provinces of Canada.

(ii) that the cattle offered for entry, except the natural increase, were included in the herd or herds of origin at the time of said herd tests; and

(iii) that the cattle offered for entry (except steers, and other cattle under six months of age and official vaccinates under 30 months of age at the time of their offer for entry) have been tested for brucellosis with negative results within 30 days preceding their offer for entry in addition to and at least 15 days after the herd test specified in (i).

(4) Bulls and female cattle under 30 months of age need not meet the requirements of subparagraph (1), (2), or (3) provided they are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they were officially vaccinated against brucellosis as calves between the ages of four through eight months for dairy breeds or four months through the day they become eleven months for beef breeds and provided, except for cattle of the beef breeds raised under range conditions in the western provinces of Canada, such animals originate in a herd not known to contain any animals affected with brucellosis. The certificate accompanying such officially-vaccinated cattle shall comply with paragraph (d) of this section except that it shall show, in lieu of the date and place of testing, the date of vaccination and shall also show the age of the animal at the time of vaccination.

(d) *Certificates; information required.* The certificates prescribed in paragraphs (b) and (c) of this section shall give the date and places of testing, names of the consignor and consignee, and descriptions of the cattle, including breed, ages, markings, and tattoo and eartag numbers.

Sec. 92.21 Sheep and goats from Canada.—(a) Sheep and goats offered for importation from Canada shall be accompanied by a certificate issued by a salaried veterinarian of the Canadian Government stating: (1) That such animals have been inspected on the premises of origin and found free of evidence of scrapie, and of any other communicable disease; (2) that, as far as it has been possible to determine, such animals have not been exposed to any such disease during the preceding 60 days; (3) that, as far as can be determined, scrapie has not existed on any premises on which such sheep or goats were located during the 42 months immediately prior to shipment to the United States; (4) that each of such animals is not the progeny of a sire or dam that has been affected with screapie; and (5) that, as far as it has been possible to determine, each of such animals is not a sheep or goat that would have been slaughtered under the current Canadian scrapie eradication program had that program been in effect since April 1957.

(b) If sheep or goats are unaccompanied by the certificate required by paragraph (a) of this section, or if they are found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry and shall be handled thereafter in accordance with the provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined, or otherwise disposed of as the Director of Division may direct.

Sec. 92.22 Swine from Canada.—(a) *For purposes other than immediate slaughter.* Swine offered for importation from Canada for purposes other than immediate slaughter shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that said swine have been inspected on the premises of origin immediately before the date of movement therefrom and found to be free of evidence of communicable disease and that, as far as it has been possible to determine, they were not exposed to any such disease during the preceding 60 days; in addition, the certificate shall show that no hog cholera or swine plague has existed on the premises of origin or on adjoining premises for such 60 days.

(b) *For immediate slaughter.* Swine for immediate slaughter may be imported from Canada without certification as prescribed in paragraph (a) of this section but shall be subject to the provisions of sections 92.8, 92.19, and 92.23.

Sec. 92.23 Animals from Canada for immediate slaughter.—Cattle and swine imported from Canada for immediate slaughter shall be consigned from the port of entry to some recognized slaughtering center and there slaughtered within two weeks from the date of entry, or upon special permission obtained from the Director of Division they may be reconsigned to other points and there slaughtered within the aforesaid period.

Sec. 92.24 Horses from Canada.—(a) All horses from Canada shall be inspected as provided in sec. 92.8: *Provided, however,* That the Director of Division may waive inspection of such horses at the port of entry or provide for their inspection at some other point when he finds that such action may be taken without endangering the livestock industry of the United States.

(b) When so ordered by the Director of Division, horses from Canada shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian government showing that said horses have been inspected on the premises of origin in Canada and found free from evidence of any contagious, infectious, or communicable disease and, as far as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind, and that said horses have been mallein tested with negative results within 30 days preceding their offer for entry.

(c) Any horse from Canada may be detained at the port of entry and there subjected to such tests as may be required by the Director of Division to determine freedom from disease.

Sec. 92.25 Special provisions.—(a) *In-bond Shipments from Canada.* Cattle, sheep, goats, swine, horses, and poultry from Canada transported in bond through the United States for immediate export shall be inspected at the border port of entry and shall otherwise meet the requirements of this Part in the same manner as similar animals destined to points in the United States, except that the Director of Division may permit their inspection at some other point when he finds that such action may be taken without endangering the livestock or poultry of the United States.

(b) *Exhibition animals.* (1) Animals, including poultry, from the United States which have been exhibited at the Royal Agricultural Winter Fair at Toronto or other publicly recognized exposition in Canada and have not been in that country more than 30 days are eligible for return to the United States within 10 days from the close of such fair or exposition without Canadian health or test certificates, if they are accompanied by copies of the health certificates properly issued and endorsed in accordance with the export regulations in Part 91 of this Chapter at the time of entry into Canada, and it is shown to the satisfaction of the veterinary inspector at the United States port of entry that they are the identical animals covered by said certificates, or, in the case of poultry, if they otherwise qualified for entry into Canada under the Canadian regulations, and in any case if they are found by the inspector to be free of communicable disease and exposure thereto.

(2) Ruminants, swine, horses, and poultry from the United States used for rodeo, circus, or stage exhibitions in Canada are eligible for return to the United States without Canadian health or test certificates, if they are accompanied by copies of the health certificates properly issued and endorsed, within the preceding three months, in accordance with the export regulations in Part 91 of this Chapter for entry into Canada, and if it is shown to the satisfaction of the veterinary inspector at the United States port of entry that they are the identical animals covered by said certificates, or, in the case of poultry, if they otherwise qualified for entry into Canada under the Canadian regulations, and, in any case, if they are found by the inspector to be free of communicable disease and exposure thereto.

Sec. 92.26 Poultry from Canada.—All poultry offered for importation from Canada shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that such poultry have been inspected on the premises of origin and that, as far as it has been possible to determine, such poultry are free of evidence of any communicable disease or exposure thereto. However, the Director of Division, when he finds that such action may be taken without endangering the poultry industry of the United States, may authorize the importation from Canada, without such certification, of eggs for hatching, newly hatched poultry, and poultry consigned for immediate slaughter.

Countries of Central America and West Indies[3]

Sec. 92.27 import permit and declaration for animals and animal semen.—(a) For ruminants, swine, poultry, and animal semen intended for importation from countries of Central America or of the West Indies, the importer shall first apply for and obtain from the Division an import permit as provided in sec. 92.4: *Provided,* That the Director of the Division, when he finds that such action may be taken without endangering the livestock or poultry industry of the United States, may, upon request by any person, authorize the importation by such person, without such application or permit, from the British Virgin Islands into the Virigin Islands of the United States, of animals consigned for immediate slaughter, and such authorization may be limited to a particular shipment or extend to all shipments under this paragraph by such person during a specified period of time. The importation of cattle from any area infested with cattle fever ticks is prohibited except as provided in paragraph (c) of sec. 92.28.

(b) For all animals and animal semen offered for importation from countries of Central America or of the West Indies, the importer or his agent shall present two copies of a declaration as provided in sec. 92.7.

Sec. 92.28 Ruminants from Central America and the West Indies.—(a) Ruminants offered for importation from countries of Central America and the West Indies, except as provided in paragraph (c) of this section, shall be accompanied by a certificate of a salaried veterinarian of the national government of the country of origin stating that such animals have been in said country at least 60 days immediately preceding the date of shipment therefrom; that he has inspected such animals on the premises of origin and found them free from evidence of any communicable disease; and that, as far as it has been possible to determine, such animals have not been exposed to any such disease during the preceding 60 days. If no such veterinary officer is available in the country of origin, ruminants, other than sheep and goats, may be accompanied by an affidavit of the owner or importer stating that such animals have been in the country from which they were directly shipped to the United States for a period of at least 60 days immediately preceding the date of shipment therefrom, and that during such period no communicable disease has existed among them or among animals of their kind with which they have come in contact. Ruminants for which such affidavit is presented, unless imported for immediate slaughter, shall be quarantined at the port of entry at least seven days and during that time shall be subjected to such dipping, blood tests or other tests, as may be required by the Director of Division to determine their freedom from communicable diseases. If imported for immediate slaughter, such animals shall be handled as provided in sec. 92.23.

(b) The certificate accompanying sheep and goats offered for importation from countries of Central America and the West Indies shall, in addition to the statements required by paragraph (a) of this section, state: (1) That the said veterinary officer has inspected such sheep and goats on the premises of origin and found them free of evidence of the disease known as scrapie; (2) that as far as can be determined, scrapie has not existed in any district in which such sheep or goats were located during the three years immediately prior to shipment to the United States; and (3) that each of such animals is not the progeny of a sire or dam that has been affected with scrapie.

(c) Cattle, which have been infested with or exposed to fever ticks, may be imported from the British Virgin Islands into the United States Virgin Islands, for immediate slaughter only, if they are free from fever ticks at the time of such importation; if they are entered through one of the ports designated in sec. 92.3(d) and are consigned to a recognized slaughtering center with facilities approved by the Director of Division for holding the animals in isolation until slaughtered, which shall be within 14 days after the date of entry into the United States Virgin Islands; and if they are accompanied by a certificate of a responsible official of the government of the British Virgin Islands certifying that the cattle originated in and are being shipped directly from the British Virgin Islands, that they are free of fever ticks, and that, as far as it has been possible to determine, such cattle are free from evidence of communicable disease and have not been exposed to any such disease common to animals of their kind, other than splenetic, southern, or tick fever, during the 60 days preceding their movement to the United States Virgin Islands.

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[3] Importations from countries of Central America and the West Indies shall be subject to sections 92.27 to 92.30, inclusive, in addition to other sections in this part which are in terms applicable to such importations.

(d) If ruminants are unaccompanied by the certificate or affidavits as required by paragraphs (a), (b), or (c) of this section, or if they are found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry, except as provided in paragraph (c) of this section. Ruminants refused entry shall be handled thereafter in accordance with the provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined, or otherwise disposed of as the Director of Division.

Sec. 92.29 Swine from Central America and the West Indies.—Swine offered for importation from countries of Central America and the West Indies shall be accompanied by an affidavit of the owner or importer stating that the said animals have been in the country from which they were directly shipped to the United States for a period of at least 60 days immediately preceding the date of shipment therefrom and that during such time no communicable disease has existed among them or among animals of their kind with which they have come in contact. Unless imported for immediate slaughter, said swine shall be quarantined at the port of entry for not less than 1 week, and in the absence of said affidavit shall be quarantined for not less than 2 weeks. While under quarantine the said swine, with the exception of wild swine, shall be immunized against hog cholera under the supervision of a veterinary inspector, at the owner's expense, by one of the methods recognized by the Department. Wild swine shall be subjected to such blood tests or other tests as may be ordered by the Director of Division in each instance to determine their freedom from communicable disease. Swine imported for immediate slaughter shall be handled as provided in sec. 92.23.

Sec. 92.30 Horses from Central America and the West Indies.—When so ordered by the Director of Division, horses from countries of Central America and the West Indies shall be subjected to such quarantine and blood tests or other tests as he may deem necessary to determine their freedom from communicable disease. Any such horses that are found to be infested with fever ticks, Boophilus annulatus, shall not be permitted entry until they have been freed therefrom by dipping in a permitted arsenical solution or by other treatment approved by the Director of Division. In lieu of inspection at the port of entry as prescribed in sec. 92.8, race horses returning from the West Indies may be inspected at such points as the Director of Division may direct.

Mexico[4]

Sec. 92.31 Import permit and application for inspection for animals and animal semen.—(a) For ruminants, swine, poultry, and animal semen intended for importation from Mexico, the importer shall first apply for and obtain from the Division an import permit as provided in sec. 92.4: *Provided,* That an import permit is not required for a ruminant or swine offered for entry at a land border port designated in sec. 92.3(c) if such animal: (1) Was born in the Mexican States of Tamaulipas, Nuevo Leon, Coahuila, Chihuahua, Sonora, Durango, or Baja California, or the United States, and (2) has been in no country other than the United States or Mexico, and in no Mexican State other than those specified above, and (3) has not, during the preceding 60 days, been corralled, pastured, or held with, or bred by, or inseminated with semen from, any ruminants or swine for which a permit would be required under this part, and (4) is not pregnant as a result of having been bred by, or artificially inseminated with semen from, a ruminant or swine for which a permit would be required under this part.

(b) For ruminants, swine, horses, and poultry potentially eligible for importation into the United States from Mexico, the importer or his agent shall deliver to the veterinary inspector at the port of entry an application, in writing, for inspection, so that the veterinary inspector and customs representatives may make mutually satisfactory arrangements for the orderly inspection of the animals. The veterinary inspector at the port of entry will provide the importer or his agent with a written statement assigning a date when the animals may be presented for import inspection.

Sec. 92.32 Declaration for animals and animal semen.—For all animals and animal semen offered for importation from Mexico, the importer or his agent shall present two copies of a declaration as provided in sec. 92.7.

Sec. 92.33 Inspection at port of entry.—(a) All horses, ruminants, swine, and poultry offered for entry from Mexico, including such animals intended for movement through the United States in bond for immediate return to Mexico, shall be inspected at the port of entry, and all such animals found to be free from communicable disease and fever tick infestation, and not to have been exposed thereto, shall be admitted into the United States subject to the other applicable provisions of this part. Animals found to be affected with or to have been exposed to a communicable disease, or infested with fever ticks, shall be refused entry except as provided in sec. 92.35(a)(2). Ruminants and swine refused entry shall be handled thereafter in accordance with provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103) or quarantined or otherwise disposed of as the Director of Division may direct. Horses and poultry refused entry, unless exported within a time fixed in each case by the Director of Division, shall be disposed of as said Director may direct.

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[4] Importations from Mexico shall be subject to sections 92.31 to 92.40, inclusive, in addition to other sections in this part which are applicable for such importations.

(b) Animals covered by paragraph (a) of this section shall be imported through ports, designated in sec. 92.3, which are equipped with facilities necessary for proper chute inspection, dipping, and testing, as provided in this part.

Sec. 92.34 Detention at port of entry and periods of quarantine.—(a) Cattle, other ruminants, and swine imported from Mexico and originating in the Mexican States of Tamaulipas, Nuevo Leon, Coahuila, Chihuahua, Sonora, Durango, and Baja California, except animals being transported in bond for immediate return to Mexico and except animals imported for immediate slaughter, may be detained at the port of entry and there subjected to such disinfection, blood tests, other tests, and dipping as may be required by the Director of Division to determine their freedom from any communicable disease or infection with such disease and the importer shall be responsible for the care, feed, and handling of the animals during the period of detention.

(b) Cattle, other ruminants, and swine originating in States of Mexico, other than those listed in paragraph (a) of this section, and all poultry, imported from mexico, except animals being transported in bond for immediate return to Mexico and eggs for hatching, shall be quarantined at the port of entry for not less than 15 days, counting from the date of arrival at such port. During their quarantine cattle, other ruminants, swine, and poultry shall be subjected to such disinfection, blood tests, other tests, and dipping as may be required by the Director of Division to determine their freedom from any communicable disease or infection with such disease. Any offering for entry from Mexico of cattle, other ruminants, and swine which includes any such animals from Mexican States other than those listed in paragraph (a) of this section; shall be subject to the provisions of this paragraph rather than to the provisions of paragraph (a) of this section.

Sec. 92.35 Cattle from Mexico—(a) *Fever ticks.* (1) Except as provided in subparagraph (2) of this paragraph, all cattle offered for importation from Mexico, for purposes other than immediate slaughter, shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that he inspected the said cattle at the time of movement to the port of entry and found them free from any evidence of communicable disease and that, as far as it has been possible to determine, they have not been exposed to any such disease, including splenetic, southern, or tick fever, during the preceding 60 days and if shipped by rail or truck the certificate shall further specify that the cattle were loaded into clean and disinfected cars or trucks for transportation direct to the port of entry. They shall also be accompanied by a certificate of the importer, or his agent supervising the shipment, stating that while en route to the port of entry they have not been trailed or driven through any district or area infested with fever ticks. Notwithstanding such certificates, such cattle shall be detained or quarantined as provided in sec. 92.34 and shall be dipped at least once, under supervision of an inspector, in an arsenical solution containing a minimum of 0.22 percent of arsenious oxide in solution, or in a permitted scabies dip, depending on the origin of the animals and subject to the discretion of the inspector. The owner or his agent shall first execute an application for inspection and dipping as provided in paragraph (a) (2) (iii) of this section.

(2) Cattle which have been infested with or exposed to fever ticks may be imported from Mexico into the State of Texas, provided the following conditions are strictly observed and complied with:

(i) The cattle shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that he has inspected the cattle and found them free from fever ticks and any evidence of communicable disease, and that, as far as it has been possible to determine, they have not been exposed to any such disease except splenetic, southern, or tick fever, during the 60 days preceding their movement to the port of entry.

(ii) The cattle shall be shown by a certificate of a salaried veterinarian of the Mexican Government to have been dipped in an arsenical solution containing a minimum of 0.22 percent of arsenious oxide in solution within 7 to 12 days before being offered for entry.

(iii) The importer, or his duly authorized agent, shall first execute and deliver to an inspector at the port of entry an application for inspection and supervised dipping wherein he shall agree to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from dipping, or resulting from the fact that they are later found to be still tick infested; and also for all subsequent loss or damage to any other cattle in the possession or control of such importer which may come into contact with the cattle so dipped.

(iv) The cattle when offered for entry shall receive a chute inspection by an inspector. If found free from ticks they shall be given one dipping in a permitted dip under the supervision of an inspector 7 to 14 days after the dipping required by subdivision (ii) of this subparagraph. If found to be infested with fever ticks, the entire lot of cattle shall be rejected and will not be again inspected for entry until 10 to 14 days after they have again been dipped in the manner provided by subdivision (ii) of this paragraph.

(v) The conditions at the port of entry shall be such that the subsequent movement of the cattle can be made without exposure to fever ticks.

(b) *Tuberculosis.* All cattle offered for importation from Mexico, except strictly range cattle[5] and those offered for immediate slaughter, shall be accompanied by a satisfactory certificate of a salaried veterinarian of the Mexican Government showing that the animals have been tested for tuberculosis with negative results within 30 days preceding their being offered for entry. The said certificate shall give the date and place of such testing, names of the consignor and consignee, and a description of the cattle, including breed, ages, markings, and tattoo and eartag numbers.

(c) *Brucellosis.* (1) All bulls and female cattle for entry into the United States from Mexico shall be detained or quarantined at the port of entry, and, except as provided in subparagraph (2) of this paragraph, a blood sample shall be obtained from each animal and an agglutination test made for brucellosis. Animals not negative to the test shall be refused entry.

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[5] It has been determined that the incidence of tuberculosis is much less than one-half of 1 percent among range cattle in the northern states of Mexico, where importations of this class of cattle originate. Such cattle, however, will be subject to the turberculin-test requirements of the state of destination.

(2) The following classes of animals shall not be required to be tested under the provisions of subparagraph (1) of this paragraph:

(i) Cattle for immediate slaughter;

(ii)Animals under six months of age; and

(iii) Female calves which are officially vaccinated against brucellosis at the port of entry by a veterinarian at no expense to the Department, under supervision of the inspector, with a vaccine approved by the Agricultural Research Service of the Department, and which are permanently identified by a tattoo in the right ear or a "V" fire brand on the right jaw as approved by the Agricultural Research Service.

Sec. 92.36 Sheep and goats and wild ruminants from Mexico.—(a) Sheep and goats offered for importation from Mexico shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government stating: (1) That he has inspected such sheep and goats on the premises of origin and found them free of evidence of the disease known as scrapie, and of any other communicable disease; (2) that, as far as it has been possible to determine, such animals have not been exposed to any such disease during the preceding 60 days; (3) that, as far as can be determined, the disease known as scrapie has not existed in any district in which such sheep or goats were located during the three years immediately prior to shipment to the United States; and (4) that each of such animals is not the progeny of a sire or dam that has been affected with scrapie. If such sheep or goats are shipped by rail or truck the certificate shall further specify that such animals were loaded into cleaned and disinfected cars or trucks for transportation direct to the port of entry. Notwithstanding such certificate, such sheep and goats shall be detained or quarantined as provided in sec. 92.34 and shall be dipped at least once in a permitted scabies dip under supervision of an inspector.

(b) The certificate accompanying goats offered for importation from Mexico shall, in addition to the statements required by paragraph (a) of this section, state that such goats have been tested for tuberculosis and brucellosis with negative results within 30 days preceding their being offered for entry, and give the date and method of testing, the name of the consignor and of the consignee, and a description of the animals including breed, ages, markings, and tattoo and eartag numbers. Notwithstanding such certification such goats shall be detained or quarantined as provided in sec. 92.34 and retested for brucellosis.

(c) If sheep or goats are unaccompanied by the certificate as required by paragraphs (a) and (b) of this section, or if they are found upon inspection or retesting, as provided for in this part, to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry and shall be handled thereafter in accordance with the provisions of section 8 of the act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined, or otherwise disposed of as the Director of Division may direct.

(d) Certificates will not be required for wild ruminants, other than sheep and goats, originating in and shipped direct from Mexico, but such animals are subject to inspection at the port of entry as provided in sec. 92.33.

Sec. 92.37 Swine from Mexico.—(a) Except as provided for in paragraph (b) of this section, all swine offered for importation from Mexico for purposes other than immediate slaughter, shall be accompanied by a certificate signed by a salaried veterinarian of the Mexican Government showing that for a period of 60 days prior to their movement from the premises on which they were kept no swine plague or hog cholera has existed within a radius of 5 miles therefrom. In addition, all such swine shall be immunized against hog cholera under the supervision of an inspector at the port of entry at the owner's expense in accordance with one of the methods recognized by the Department for preventing the spread of this disease. In the absence of the certificate as herein specified, such swine shall be detained or quarantined as provided in sec. 92.34 and, in addition to immunization against hog cholera, shall be subjected to such inspections and tests as may be deemed necessary by the Director of Division to determine their freedom from communicable disease.

(b) A certificate as specified in this section will not be required for wild swine for exhibition purposes, and such animals will not be required to undergo immunization against hog cholera but are subject to inspection at the port of entry as provided in sec. 92.33.

Sec. 92.38 Poultry from Mexico.—Poultry, except eggs for hatching, offered for entry from Mexico, for purposes other than immediate slaughter, shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that such poultry and their flock or flocks of origin were inspected on the premises of origin immediately before the date of movement therefrom; that they were then found to be free of evidence of communicable diseases of poultry; and that, as far as it has been possible to determine, they were not exposed to any such diseases during the 60 days immediately preceding the date of movement therefrom or since they were hatched; that, in so far as it has been possible to determine, no case of European fowl pest (fowl plague) or Newcastle disease (avian pneumoencephalitis), occurred in the localities where the poultry were kept during such period. Eggs for hatching offered for importation from Mexico shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that the flock or flocks or origin of such eggs were inspected on the premises of origin immediately before the date of movement of the eggs therefrom, and found to be free from evidence of communicable diseases of poultry; and that, as far as it has been possible to determine, such flock or flocks were not exposed to any such diseases during the preceding 60 days.

Sec. 92.39 Horses from Mexico.—(a) Horses offered for importation from Mexico shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Mexican Government showing that said horses have been inspected on the premises of origin in Mexico and found free from evidence of any contagious, infectious, or communicable disease, and, as far as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind during the preceding 60 days: *Provided, however,* That the Director of Division may waive the certificate requirement with respect to any or all horses from Mexico when he finds that such action may be taken without endangering the livestock industry of the United States.

(b) Horses offered for importation from tick-infested areas of Mexico shall be chute inspected, unless in the judgment of the inspector a satisfactory inspection can be made otherwise. If they are found to be apparently free from fever ticks, before entering the United States they shall be dipped once in a permitted arsenical solution or be otherwise treated in a manner approved by the Director of Disivion. If they are found to be infested with fever ticks they shall be refused entry but may be reoffered for importation after being handled as prescribed in sec. 92.35 (a) (2) (ii) for cattle from tick-infested areas.

(c) Any horse from Mexico may be detained or quarantined at the port of entry and there subjected to such tests as may be required by the Director of Division to determine freedom from disease, and the importer shall be responsible for the care, feed, and handling of such horses during the period of detention or quarantine.

Sec. 92.40 Animals for immediate slaughter.—Swine and ruminants, other than sheep and goats, from the Mexican states of Tamaulipas, Nuevo Leon, Coahuila, Chihuahua, Sonora, Durango, and Baja California, and horses and poultry from any part of Mexico, may be imported, subject to the applicable provisions of sections 92.31, 92.32, 92.33, 92.35 (a) (2) and 92.39 (a), for immediate slaughter if accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that he has inspected such animals on the premises of origin and found them free of evidence of communicable disease, and that, so far as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind during the preceding 60 days, and if the animals are shipped by rail or truck, the certificate shall further specify that the animals were loaded into cleaned and disinfected cars or trucks for transportation directly to the port of entry. Such animals shall be consigned from the port of entry to some recognized slaughtering center and there slaughtered within 2 weeks from the date of entry. Such animals shall be moved from the port of entry in conveyances sealed with seals of the United States Government. Swine and ruminants from Mexican States other than those designated above and sheep and goats from any part of Mexico may be imported only in compliance with other applicable sections in this part.

RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA; PROHIBITED AND RESTRICTED IMPORTATIONS

Regulations of the Animal and Plant Health Inspection Service, Department of Agriculture, relating to the importation of products from countries where rinderpest and other diseases have been designated to exist, Code of Federal Regulations, Title 9, sections 94.1-94.16.

Authority: Secs. 94.1-94.16 issued under sec. 2, 32 Stat. 792, as amended; sec. 306, 46 Stat. 689 (19 U.S.C. 1306, 21 U.S.C. 111))

Sec. 94.1 Designation of countries where rinderpest or foot-and-mouth disease exists; importations prohibited. (a) Notice is hereby given that, in accordance with section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), it has been determined, and official notice has been given to the Secretary of the Treasury that:

(1) Rinderpest or foot-and-mouth disease exists in all countries of the world, except those listed in paragraph (a)(2) of this section;

(2) The following countries are declared to be free of both rinderpest and foot-and-mouth disease: Australia, Bahama Islands, Barbados, Bermuda, British Honduras (Belize), Canada, Finland, Great Britain (England, Scotland, Wales, and Isle of Man), Greenland, Guatemala, Haiti, Honduras, Iceland, Ireland, Jamaica, Japan, Costa Rica, Dominican Republic, El Salvador, Fiji, Mexico, New Zealand, Nicaragua, Northern Ireland, Norway, Panama, Panama Canal Zone, Territory of St. Pierre and Miquelon, and Sweden, Tobago, Trinidad, and Trust Territory of the Pacific Islands.

(b) The bringing within the territorial limits of the United States of cattle, sheep, or other ruminants, or swine, or of fresh, chilled, or frozen meat of such animals (including such animals or meat on board a vessel or other means of conveyance for use as sea stores or otherwise), which originate in or are shipped from a country designated in paragraph (a) of this section as a country infected with rinderpest or foot-and-mouth disease or which enter a port in or otherwise transit such a country, is prohibited, except as provided in Part 92 of this chapter for wild ruminants and wild swine, and except as provided in paragraph (c) of this section for meat.

(c) Except as otherwise provided in this part, fresh, chilled, or frozen meat of ruminants or swine which originates in and is shipped from a country other than those designated in paragraph (a) of this section as infected with rinderpest or foot-and-mouth disease and which enters any port of such an infected country or otherwise transits such an infected country en route to the United States, may be imported into the United States insofar as the restrictions of this part are concerned, if:

(1) The meat is accompanied by the foreign meat inspection certificate or certificates required under section 327.6 of Chapter III of this title;

(2) The hold or compartment of the transporting carrier into which the meat was loaded was sealed in the country of origin by an official of such country with seals approved by the Veterinary Services unit of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, so as to prevent contamination, and the loading of any cargo into and the removal of any cargo from such sealed hold or compartment, en route to the United States;

(3) The seals used to seal such hold or compartment of such carrier are serially numbered and recorded on the certificate or certificates, referred to in subparagraph (1) of this paragraph accompanying the shipment;

(4) Upon arrival of the carrier in the United States port of entry the seals are found by a representative of Veterinary Services of this Department to be intact and such

representative finds that there is no evidence indicating that the seals were tampered with; and

(5) Such meat is found by a representative of this Department to be as represented in the certificate or certificates referred to in (1) above.

Sec. 94.1a Criteria for determining the separate status of a territory or possession as to rinderpest and foot-and-mouth disease.—(a) The Secretary of Agriculture will make a determination as to whether a territory or possession may be deemed separate from the mother country, in which rinderpest or foot-and-mouth disease has been determined to exist, for the purposes of section 306(a) of the act of June 17, 1930, as amended (19 U.S.C. 1306(a)), only if:

(1) The official authority of that territory or possession, having responsibility for animal health matters, has declared such territory or possession free of rinderpest and foot-and-mouth disease;

(2) The territory or possession is geographically separate from the mother country and has full autonomy from the mother country in all animal health matters, including import and export;

(3) The territory or possession has a veterinary service which is capable of speedily detecting rinderpest or foot-and-mouth disease and which is comprised of veterinarians who:

(i) are employed as officials of the government of the territory or possession,

(ii) are graduates of a recognized school of veterinary medicine, and

(iii) are assigned in sufficient numbers and are so distributed, with respect to the livestock population, to be able to promptly recognize the existence of rinderpest and foot-and-mouth disease;

(4) A laboratory capable of diagnosing rinderpest and foot-and-mouth disease is available to the veterinary service of the territory or possession;

(5) Vaccinations for foot-and-mouth disease or rinderpest are not permitted in the territory or possession;

(6) The reporting of rinderpest or foot-and-mouth disease to the veterinary authorities of the territory or possession is required by anyone who has notice of the existence of these diseases;

(7) Laws and regulations are in effect and are administered in such manner as to insure against the introduction of foot-and-mouth disease or rinderpest through the importation of animals, meat, and animal products from countries, including the mother country, declared by the United States Secretary of Agriculture to be countries where foot-and-mouth disease or rinderpest exist;

(8) Animals introduced into the territory or possession from rinderpest or foot-and-mouth disease infected countries, including the mother country, are imported through a quarantine station and under conditions acceptable to the Secretary of Agriculture of the United States, and such conditions include, but are not restricted to:

(i) Tests deemed necessary for the detection of rinderpest and foot-and-mouth disease.

(ii) quarantine deemed necessary for the detection of rinderpest and foot-and-mouth disease, and

(iii) opportunity for observation by a United States Department of Agriculture veterinarian during all phases of the import procedures;

(b) An on-site inspection by a veterinary representative of the United States Department of Agriculture to determine whether the criteria in this section are met shall be made of the territory or possession before any final determination is made as to its status.

Sec. 94.2 Fresh, chilled, or frozen products (other than meat), and milk and milk products of ruminants and swine.—(a) The importation of fresh, chilled, or frozen products (other than meat and milk and milk products) derived from ruminants or swine, originating in, shipped from, or transiting any country designated in section 94.1(a) as a country infected with rinderpest or foot-and-mouth disease is prohibited, except as provided in section 94.3 and Parts 95 and 96 of this chapter.

(b) The importation of milk and milk products of ruminants and swine originating in, shipped from, or transiting any country designated in section 94.1(a) as a country infected with rinderpest or foot-and-mouth disease is prohibited, except as provided in section 94.16.

Sec. 94.3 Organs, glands, extracts, or secretions of ruminants or swine.—The importation of fresh, chilled, or frozen organs, glands, extracts, or secretions derived from ruminants or swine, originating in any country designated in section 94.1 except for pharmaceutical or biological purposes under conditions prescribed by the Deputy Administrator, Veterinary Services in each instance, is prohibited.

Sec. 94.4 Foreign dured or cooked meats[1] from countries where rinderpest or foot-and-mouth disease exists.—(a) The importation of cured meats derived from ruminants or swine, originating in any country designated in section 94.1 is prohibited unless the following conditions have been fulfilled:

(1) All bones shall have been completely removed in the country of origin.

(2) The meat shall have been held in an unfrozen, fresh condition for at least 3 days immediately following the slaughter of the animals from which it was derived.

(3) (i) The meat shall have been thoroughly cured and fully dried in such manner that it may be stored and handled without refrigeration, as in the case of salami and other summer sausages, tasajo, xarque, or jerked beef, bouillon cubes, dried beef, and Westphalia, Italian and similar type hams. The term "fully dried" as used in this subparagraph means dried to the extent that the water-protein ratio in the wettest portion of the product does not exceed 2.25 to 1.

(ii) Laboratory analysis of samples to determine the water-protein ratios will not be made in the case of all shipments of cured and dried meats. However, in any case in which the inspector is uncertain whether the meat complies with the requirements of subparagraph (i) he will send a sample of the meat representative of the wettest portion to the Meat Inspection Division for analysis of the water-protein ratio. Pending such analysis the meat shall not be released or removed from the port of entry.

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[1] This does not include any meat that has been sterilized by heat in hermetically sealed containers.

(b) The importation of cooked meats derived from ruminants or swine originating in any country designated in section 94.1 is prohibited unless the following conditions shall have been fulfilled:

(1) All bones shall have been completely removed in the country of origin.

(2) The meat shall have been heated to such an extent that, upon inspection, the meat will have a thoroughly cooked appearance throughout.

(3) When so directed by the Deputy Administrator, Veterinary Services, such meat shall be consigned directly from the port of entry to a meat-processing establishment operating under Federal meat inspection that has been approved by him for the further processing of such meat. Such meat shall be shipped from the port of entry to the approved establishment under Customs seals or seals of Veterinary Services and shall be otherwise handled as the said Deputy Administrator, Veterinary Services may direct. Seals applied under authority of this section shall not be broken except by persons authorized to do so by the said Deputy Administrator, Veterinary Services.

Sec. 94.5 Garbage; regulations on storage and movement on certain means of conveyance.—(a) Garbage on or unloaded from any means of conveyance arriving in the United States from any place outside thereof (except garbage that has not been outside the territorial limits of the United States and Canada), or arriving in the continental United States from Hawaii or any Territory or possession, or arriving in any Territory or possession from any other Territory or possession or from Hawaii, or arriving in Hawaii from any Territory or possession, shall be subject to general surveillance by Animal and Plant Health Inspection Service inspectors and to such disposal measures as are authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), Section 10 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 164a), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), to prevent the dissemination of plant pests and livestock or poultry diseases.[2]

(b) (1) All garbage regulated in paragraph (a) of this section shall be contained in tight, leak-proof covered receptacles (inside the guard rail on vessels) during storage on board such means of conveyance while in the territorial waters or otherwise within the territory of the United States. Such garbage shall not be unloaded from such means of conveyance in the United States unless such garbage is removed in tight, leakproof receptacles under the direction of an Animal and Plant Health Inspection Service inspector to an approved facility for incineration, sterilization, or grinding into an approved sewage system, under supervision by such an inspector, or such garbage is removed for other handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator as complying with the applicable laws for environmental prote[illegible]on and as adequate to prevent the dissemination into or within the United States of plant pests and livestock or poultry diseases.

(2) Application for approval of a facility or sewage system may be made in writing by the authorized representative of any carrier or by the official having jurisdiction over the port or place of arrival of the means of conveyance, to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. The application shall be endorsed by the operator of the facility or sewage system. Approval will be granted if the Administrator determines that the requirements set forth in this section are met. Approval may be denied or withdrawn at any time, if the Administrator determines that such requirements are not met, after notice of the proposed denial or withdrawal of the approval and the reasons therefor, and an opportunity to demonstrate or achieve compliance with such requirements, has been afforded to the operator of the facility or sewage system and to the applicant for approval. However, approval may also be withdrawn without such prior procedure in any case in which the public health, interest or safety requires immediate action, and in such case, the operator of the facility or sewage system and the applicant for appoval shall promptly thereafter be given notice of the withdrawal and the reasons therefor and an opportunity to show cause why the approval should be reinstated.

(c) The Plant Protection and Quarantine Programs and Veterinary Services, Animal and Plant Health Inspection Service, will cooperate with other Federal, State, and local agencies responsible for enforcing other statutes and regulations governing disposal of garbage to the end that such disposal shall be adequate to prevent the dissemination of plant pests and livestock or poultry diseases and comply with applicable laws for environmental protection. The inspectors, in maintaining surveillance over garbage movements and disposal, shall coordinate their activities with the activities of representatives of the Environmental Protection Agency and other Federal, State, and local agencies also having jurisdiction over such garbage.

(d) As used in this section:

(1) "Garbage" means all waste material derived in whole or in part from fruits, vegetables, meats or other plant or animal (including poultry) material, and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers or packaging materials, and other waste material from stores, food preparation areas, passengers' or crews' quarters, dining rooms, or any other areas on vessels, aircraft, or other means of conveyance.

(2) "Sterilization" means cooking garbage at 212° F. for 30 minutes and disposal of the residue by burying.

(3) "Incineration" means to reduce the garbage to ash by burning.

(4) "Approved sewage system" means a sewage system approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that the system is designed and operated in such a way as to

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[2] The provisions of this section for handling of garbage do not relieve any prohibition or restriction elsewhere in this title on bringing any meat or other product or article into the United States or on the interstate movement of any product or article.

preclude the discharge of sewage effluents onto land surfaces or into lagoons or other stationary waters, and otherwise is adequate to prevent the dissemination of plant pests and livestock or poultry diseases, and that it is certified by an appropriate government official as currently complying with the applicable laws for environmental protection.

(5) "Approved facility" means a facility approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that it has equipment and uses procedures that are adequate to prevent the dissemination of plant pests and livestock or poultry diseases, and that it is certified by an appropriate government official as currently complying with the applicable laws for environmental protection.

(6) "Carrier" means the principal operator of a means of conveyance.

(7) "United States" means the States, District of Columbia, Guam, Puerto Rico and the Virgin Islands of the United States.

(8) "Territories or possessions" means Guam, Puerto Rico, and the Virgin Islands of the United States.

Sec. 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.—(a)(1) Viscerotropic velogenic Newcastle disease is considered to exist in all countries of the world except those listed in paragraph (a)(2) of this section.

(2) The following countries are considered to be free of viscerotropic velogenic Newcastle disease: Australia, Canada, Denmark, Finland, Iceland, New Zealand, Northern Ireland, Norway, Republic of Ireland and Sweden.

(b) For the purposes of this section, the following terms shall mean:

(1) *Infected country.* Any country not listed in paragraph (a)(2) of this section as free of viscerotropic velogenic Newcastle disease.

(2) *Poultry.* Chickens, turkeys, swans, pheasants, grouse, partridges, quail, guinea fowl, pea fowl, and the non-migratory types of ducks, gesse, pigeons and doves.

(3) *Birds.* All members of the class Aves (other than poultry or game birds).

(4) *Game Birds.* Migratory types of ducks, geese, pigeons, and doves. ("Migratory" refers to flight to and from the United States in accordance with a seasonal pattern.)

(c) Any carcasses of poultry, game birds, and other birds, or parts or products thereof, which originated in and were shipped directly from a country listed in paragraph (a)(2) of this Section are exempt from the requirements of this section.

(d) Any carcasses of poultry, game birds, and other birds, or parts or products thereof, which originated in any infected country or which transited any such country may be imported only in accordance with the following requirements:

(1) Carcasses of game birds may be imported if they have been eviscerated and the heads and feet removed.

(2) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported for consignment to any museum, educational institution or other establishment which has provided the Deputy Administrator, Veterinary Services, with evidence that it has the equipment, facilities, and capabilities to store, handle, process, or disinfect such articles so as to prevent the introduction or dissemination of viscerotropic velogenic Newcastle disease into the United States, and which is approved by him.[3]

(3) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds, may be imported if packed in hermetically sealed containers and if cooked by a commercial method after such packing to produce articles which are shelf stable without refrigeration.

(e) Carcasses or parts or products of carcasses, of poultry, game birds, and other birds which do not qualify for importation under paragraph (c) or (d) of this section may be imported only if the importer applies to, and is granted a permit by, the Deputy Administrator, Veterinary Services authorizing such importation. Permission will be given only when the Deputy Administrator determines that such importation will not constitute a risk of introduction or dissemination of viscerotropic velogenic Newcastle disease into the United States.

(f) Eggs, other than hatching eggs,[4] of poultry, game birds, and other birds, originating in and shipped directly from a country listed in paragraph (a)(2) of this section are exempt from the requirements of this section.

(g) Except as provided in paragraph (h) of this section, eggs, other than hatching eggs[4] of poultry, game birds, and other birds, originating in or transiting an infected country may be imported only if:

(1) The eggs are accompanied by a certificate signed by a salaried veterinary officer of the national government of the country of origin stating:

(i) That the flock or flocks of origin were found upon inspection to be free from evidence of communicable disease of poultry;

(ii) That no Newcastle disease has occurred on the premises of origin or on adjoining premises during the 90 days immediately preceding the date of movement of the eggs from such country.

(iii) That insofar as it has been possible to determine, the flock or flocks of origin were not exposed to Newcastle disease during the 90 days immediately preceding the date of movement of the eggs from such country;

(iv) That the eggs have been washed and sanitized in a hypochlorite solution of from 100 p.p.m. to 200 p.p.m. of available chlorine and are packed in new, unused packing materials.

(v) That the eggs are from flocks determined to be free of Newcastle disease and other communicable diseases of poultry as demonstrated through a surveillance program in effect for not less than 60 days before such eggs are certified for exports to the United States, with such surveillance maintained during the period in which the eggs being certified were laid.

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[3] Information as to the identity of approved establishments may be obtained from, and request for approval of any establishment may be made to, the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Establishments will be approved only if the Deputy Administrator, Veterinary Services, determines that the imported articles will be so handled at the establishments as to prevent the introduction or dissemination of viscerotropic velogenic Newcastle disease into the United States. Approval of any establishment may be refused or withdrawn only after the operator thereof has been given notice of the proposed action and has had an opportunity to present his views thereon.

[4] The requirements for the importation of hatching eggs are stated in Part 92 of this chapter.

(2) The surveillance program required under paragraph (g)(1)(v) of this section shall be one of the following:

(i) Placement of Newcastle disease susceptible sentinel birds[5] in the flock or flocks of origin at a rate of not less than one sentinel bird per thousand, with a minimum of 30 sentinel birds per house, with the sentinels remaining free of clinical and immunological evidence of Newcastle disease as demonstrated by negative hemagglutination inhibition tests conducted on samples drawn at 10-day intervals throughout the surveillance period; or

(ii) Once weekly collection of carcasses of all birds in the flock or flocks of origin, dying during the surveillance period, with laboratory examination of such carcasses including use of the embryonated egg inoculation technique,[6] to detect Newcastle disease virus; and once monthly collection of tracheal and cloacal swabs from not less than 10 percent of the birds in the flock or flocks of origin, for laboratory testing.[6] All examinations and tests shall be negative for evidence of Newcastle disease.

The laboratory conducting the examinations and testing required in this paragraph shall be a facility located in the country of origin of the eggs being certified, and shall be approved by the national government of said country for this purpose in accordance with criteria acceptable to the Deputy Administrator, Veterinary Services.[7]

(h) Eggs, other than hatching eggs, of poultry, game birds, and other birds, which do not qualify for importation under paragraph (f) or (g) of this section may be permitted entry in specific cases by the Deputy Administrator, Veterinary Services, upon application to him, if:

(1) Such eggs are transported under U.S. Government seal to a processing establishment approved by the Deputy Administrator for breaking and pasteurization, and the Deputy Administrator determines that such handling and use of the eggs does not involve a risk of the introduction or dissemination of visceratropic velogenic Newcastle disease into the United States. Shells of such eggs, cases, and other packing materials used in the importation shall be disposed of under the supervision of a Department inspector in a manner approved by the Deputy Administrator as adequate to effectuate the purposes of this section; or

(2) Such eggs are imported for scientific, educational or research purposes and the importer has provided to the Deputy Administrator, Veterinary Services, evidence, satisfactory to the Deputy Administrator, that he has the equipment, facilities, and capability to store, handle, process, or disinfect the eggs in a manner adequate to prevent the introduction or dissemination of visceratropic velogenic Newcastle disease into the United States; or

(3) Such eggs do not qualify for importation under paragraph (h)(1) or (2) of this section and the Deputy Administrator, Veterinary Services, authorizes such importation. Permission will be given only when the Deputy Administrator determines that such importation will not constitute a risk of introduction or dissemination of visceratropic velogenic Newcastle disease into the United States.

Sec. 94.7 Disposal of animals, meats, and other articles ineligible for importation.—(a) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under section 94.1, which come into the United States by ocean vessel and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 48 hours, and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(b) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under section 94.1, which come into the United States aboard an airplane or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 24 hours and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(c) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under section 94.1, which come into the United States by any means other than ocean vessel, airplane, or railroad car and are offered for entry and refused admission into this country shall be destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), unless they are exported by the consignee within 8 hours on the same means of conveyance and meanwhile are retained under such isolation and other safeguards as the Deputy Administrator, Veterinary Services, may require to prevent the introduction or dissemination of livestock or poultry diseases into the United States.

(d) Ruminants and swine, and fresh, chilled, or frozen meats, prohibited importation under section 94.1, which come into the United States by any means but are not offered for entry into this country; and other animals, meats, and other articles prohibited importation under other sections of this part which come into the United States by any means, whether they are offered for entry into this country or not, shall be immediately destroyed or otherwise disposed of as the Deputy Administrator, Veterinary Services, may direct at any time in accordance with section 2 of the Act of February 2, 1903, as amended, or section 2 of the Act of July 2, 1962 (21 U.S.C. 111, 134a).

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[5] A sentinel bird is a specimen pathogen-free chicken which has not been infected with, exposed to, or immunized with any strain of Newcastle disease virus and is therefore susceptible to Newcastle disease. Information regarding sources of sentinel birds may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[6] Technical information on laboratory methods and procedures may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[7] Information regarding the identity of such approved laboratory facilities and other criteria for such approval may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Sec. 94.8 Pork and pork products from countries where African swine fever exists.—African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the contagion of the disease in pork and pork products is by heat treatment. In view of these circumstances and in order to prevent the introduction and dissemination of the contagion of African swine fever, the regulations in this section are promulgated with respect to the importation of pork and pork products from the following countries where the disease exists:

All countries of Africa.
Cuba.
France.
Portugal.
Spain.

(a) No pork or pork product will be permitted entry into the United States from any country where African swine fever exists unless:

(1) Such pork or pork product has been fully cooked in a can which was promptly sealed so that such cooking and sealing produced a fully sterilized product in a hermetically sealed can that is shelf stable without refrigeration; or

(2) Such pork or pork product is not otherwise prohibited importation under this part and is consigned directly from the port of entry in the United States to a meat processing establishment operating under Federal meat inspection, approved by the Deputy Administrator, Veterinary Services for further processing of such pork or pork product by heat.

(b) Pork or pork products consigned from the port of entry to an approved establishment under the provisions of subparagraph (2) of paragraph (a) of this section shall be moved from the port of entry to the approved establishment under Customs seals or seals of the Deputy Administrator, Veterinary Services and shall be otherwise handled as the Deputy Administrator, Veterinary Services may direct in order to guard against the introduction and dissemination of the contagion of African swine fever. Seals applied under this section shall not be broken except by persons authorized to do so by the Deputy Administrator, Veterinary Services.

(c) Pork or pork products imported into the United States from a country where African swine fever exists which do not meet the requirements specified in this section shall be seized, quarantined, and disposed of as the Deputy Administrator, Veterinary Services may direct in order to guard against the introduction and dissemination of the contagion of the disease.

Sec. 94.9 Pork and pork products from countries where hog cholera exists.—(a) Hog cholera is one of the most dangerous and destructive of all swine diseases. The causative virus is highly virulent and is likely to be present in pork and pork products originating in countries where the disease exists. The disease is known to exist in all countries of the world except Australia, Canada, Denmark, Great Britain (England, Scotland, Wales, and Isle of Man), Iceland, Northern Ireland, the Republic of Ireland, Trust Territory of the Pacific Islands, and New Zealand. The only known practical methods of destroying the contagion of the disease in pork and pork products are by a treatment as prescribed in this section. In view of these circumstances and in order to prevent the introduction and dissemination of the contagion of hog cholera, the regulations in this section are promulgated with respect to the importation of pork and pork products from all countries of the world except: Australia, Canada, Denmark, Great Britain (England, Scotland, Wales, and Isle of Man), Iceland, Northern Ireland, the Republic of Ireland, Trust Territory of the Pacific Islands and New Zealand.[8]

(b) No pork or pork product will be permitted entry into the United States from any country where hog cholera is known to exist unless it complies with the following requirements:

(1) Such pork or pork product has been treated in accordance with one of the following procedures:

(i) Such pork or pork product has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling and before such cooking, so that such cooking and sealing produced a fully sterilized product which is in a hermetically sealed can and is shelf stable without refrigeration;

(ii) Such pork or pork product is in compliance with the following requirements:

(*a*) All bones have been completely removed in the country of origin, and

(*b*) Such article has received heat treatment producing an internal temperature of 156° F.; or

(iii) Such pork or pork product is in compliance with the following requirements:

(*a*) All bones have been completely removed in the country of origin, and

(*b*) The meat has been held in an unfrozen, fresh condition for a least 3 days immediately following the slaughter of the animals from which it was derived, and

(*c*) The meat has been thoroughly cured and fully dried for a period of not less than 90 days so that the product is shelf stable without refrigeration. *Provided*, That the period of curing and drying shall be 45 days if the pork or pork product is accompanied to the processing establishment by a certificate of an official of the national government of a hog cholera free country which specifies that:

(*1*) The pork involved originated in that country and the pork or pork product was consigned to a processing establishment in ______ (a country not listed in paragraph (a) of this section as free of hog cholera), in a closed container sealed by the national veterinary authorities of the hog cholera free country by seals of a serially numbered type; and

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[8] See also other provisions of this part and Parts 92, 95, 96, and 327 of this chapter for other prohibitions and restrictions upon importation of swine and their products.

(*2*) The numbers of the seals used were entered on the meat inspection certificate of the hog cholera free country which accompanied the shipment from such free country: *And, provided further*, That the certificate required by paragraph (b)(1)(iii)(*c*)(*3*) of this section also states that: The container seals specified in paragraph (b)(1)(iii)(*c*)(*1*) of this section were found intact and free of any evidence of tampering on arrival at the processing establishment by a national veterinary inspector; and the processing establishment from which the pork or pork product is shipped to the United States does not receive or process any live swine, and uses only pork or pork product which originates in countries listed in paragraph (a) of this section as free of hog cholera and processes all such pork or pork products in accordance with paragraph (b)(1), (i), (ii), or (iii) of this section.

(*3*) In addition to the certificate required by section 327.4 of this title, the article is accompanied by a certificate stating the facts specified in subdivision (i) or (ii) or (iii) of subparagraph (1) of this paragraph, and issued by an official of the national government of the country of origin who is authorized to issue the certificates required by section 327.4[9] of this title.

(2) The article was prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act and the regulations in section 327.2 in Chapter III of this title; and

(c) Thoroughly cured and fully dried pork and pork products from countries where both hog cholera and swine vesicular disease are known or considered to exist need not comply with the requirements of section 94.9(b)(1)(iii) if they are in compliance with the provisions of section 94.12(b)(1)(iii).

Sec. 94.10 Swine from countries where hog cholera exists; importations prohibited.—Whereas it has been determined that hog cholera exists in all countries of the world except Australia, Canada, Denmark, Great Britain (England, Scotland, Wales, and Isle of Man), Iceland, Northern Ireland, the Republic of Ireland, Trust Territory of the Pacific Islands and New Zealand, and that swine which originate in or are shipped from or transit any country except those listed, would, if brought into the United States, be likely to introduce or disseminate hog cholera into the United States, it is hereby further determined that, in order to protect the livestock of the United States, it is necessary to prohibit the movement of such swine into the United States and such movement is hereby prohibited except for wild swine which may be allowed importation by the Deputy Administrator upon request in specific cases under section 92.4(c) or section 92.2 of this chapter.

Sec. 94.11 Restrictions on importation of meat and other animal products from specified countries.—(a) Bahama Islands, Finland, Great Britain (England, Scotland, Wales, Isle of Man), Japan, Norway, and Sweden, which are declared in section 94.1 to be free of rinderpest and foot-and-mouth disease, supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in section 94.1(a) to be infected with rinderpest or foot-and-mouth disease; or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States. Thus, even though this Department has declared such countries to be free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in such free countries may be commingled with the fresh, chilled, or frozen meat of animals from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, meat of ruminants or swine, and other animal products, and ship stores, airplane meals, and baggage containing such meat or animal products originating in the free countries listed in this section shall not be imported into the United States unless the following requirements in addition to other applicable requirements of this Chapter III are met. As used in this section the term "other animal product" means all parts of the carcass of any ruminant or swine, other than meat and articles regulated under Part 95 or 96 of this chapter.

(b) All meat or other animal product from such countries, whether in personal-use amounts or commercial lots (except that which has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling and before such cooking and sealing so as to result in a fully sterilized product in a hermetically sealed can which is shelf stable without refrigeration) shall have been prepared only in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the regulations in section 327.2, Chapter III of this title, issued thereunder, and shall be accompanied by a Department-approved meat inspection certificate prescribed in section 327.4 in Chapter III of this title, or similar certificate approved by the Deputy Administrator, Veterinary Services, as adequate to effectuate the purposes of this section, regardless of the purpose or amount of product in the shipment.

(c) Shipments of such meat or other animal product must be accompanied by an additional certificate signed by a full-time salaried veterinary official of the agency in the National Government having responsibility for the health of animals within that country, giving the name and official establishment number of the establishment where the animals involved were slaughtered and stating that:

(1) The slaughtering establishment is not permitted to receive animals that originated in, or have ever been in, or that have been aboard a means of conveyance at the time such means of conveyance called at or landed at a port in, a country listed in section 94.1(a) as a country infected with rinderpest or foot-and-mouth disease;

(2) The slaughtering establishment is not permitted to receive meat or other animal products derived from ruminants or swine which originated in such a rinderpest or foot-and-mouth disease infected country, or meat or other animal products from a rinderpest and foot-and-mouth disease free country transported through a rinderpest or foot-and-mouth disease infected country except in containers sealed with serially numbered seals of the

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[9] The certification required may be placed on the certificate prescribed by section 327.4 or may be contained in a separte document.

National Government of the noninfected country of origin;

(3) The meat or other animal product covered by the certificate was derived from animals born and raised in a country listed in section 94.1(a)(2) as free of rinderpest and foot-and-mouth disease and the meat or other animal product has never been in any country in which rinderpest or foot-and-mouth disease existed;

(4) The meat or other animal product has been processed, stored, and transported to the means of conveyance that will bring the article to the United States in a manner to preclude its being commingled or otherwise in contact with meat or other animal products that do not comply with the conditions contained in this certificate.

Sec. 94.12 Pork and pork products from countries where swine vesicular disease exists.—(a) Swine vesicular disease is considered to exist in all countries of the world except Australia, Bahama Islands, Canada, Central American countries and Panama, Haiti, Dominican Republic, Denmark, Sweden, Norway, Finland, Iceland, Greenland, Mexico, Netherlands, Northern Ireland, the Republic of Ireland, New Zealand, Hungary, Yugoslavia, Bulgaria, Belgium, Luxembourg, Rumania, and Trust Territory of the Pacific Islands.

(b) No pork or pork products shall be permitted entry into the United States from any country where swine vesicular disease is considered to exist unless it complies with the following requirements and it is not otherwise prohibited importation under this part:

(1) Such pork or pork product has been treated in accordance with one of the following procedures:

(i) Such pork or pork product has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling, and before such cooking, so that such cooking and sealing produced a fully sterilized product which is in a hermetically sealed can and is shelf stable without refrigeration; or

(ii) Such pork or pork product is in compliance with the following requirements:

(A) All bones have been completely removed in the country of origin, and

(B) Such article has received heat treatment in a commercially accepted manner used for perishable canned pork products that produces an internal temperature of 156° F.; or

(iii) Such pork or pork product if cured and dried is in compliance with the following requirements:

(A) All bones have been completely removed in the country of origin, and

(B) Such pork or pork products shall be consigned directly from the port of entry in the United States to a meat processing establishment operating under Federal meat inspection and approved by the Deputy Administrator, Veterinary Services[10] for heating to an internal temperature of 166° F, or

(iv) Such pork or pork product, if it originated in a swine vesicular disease free country, has been cured and dried and is in compliance with the following requirements:

(A) All bones have been completely removed in the country of origin, and

(B) (1) Such pork or pork product is accompanied from the swine vesicular disease free country of origin to the processing establishment in the swine vesicular disease infected country by a certificate signed by an official of the National Government of the swine vesicular disease free country of origin specifying that the pork or pork product involved originated in that country and the pork or pork product was consigned to a processing establishment in ________ (a country not listed in paragraph (a) of this section as free of swine vesicular disease), in a closed container sealed by the national veterinary authorities of the swine vesicular disease free country of origin by seals of a serially numbered type. The numbers of these seals shall be entered on this certificate; and

(2) The certificate required by paragraph (b)(3) of this section shall also state that:

(i) the container seals specified in paragraph (b)(1)(iv)(B)(1) of this section were found intact and free of any evidence of tampering on arrival at the processing establishment in the swine vesicular disease infected country by a national veterinary inspector of that country,

(ii) the processing establishment from which the pork or pork product was shipped to the United States does not receive or process any live swine, and uses only pork or pork products which originate in countries listed in paragraph (a) of this section as free of swine vesicular disease; and

(iii) that such establishment processes all such pork or pork products in accordance with paragraph (b)(1)(i), (ii), (iii) or (iv) of this section.

(2) The article was prepared in an establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act and the regulations in section 327.2 in Chapter III of this title; and

(3) In addition to the certificate required in section 327.4 of this title, the article is accompanied by a certificate stating the facts specified in paragraphs (b)(1) (i), (ii), (iii) (A) or (iv) (B) (2) of this section. The certificate shall be issued by an official of the National Government of the country of origin who is authorized to issue the certificates required by section 327.4 of this title.[11]

Sec. 94.13 Restrictions on importation of pork or pork products from specified countries.—Bahama Islands, Belgium, Luxembourg, the Netherlands, Hungary, Yugoslavia, and Bulgaria which are declared to be free of swine vesicular disease in section 94.12(a); are countries which either supplement their national pork supply by the importation of fresh, chilled, or frozen pork from countries where swine vesicular disease is considered to exist; or which have a common border with such countries; or which have certain trade practices that are less restrictive than are acceptable to the United States. Thus, the pork or pork products produced in such countries may be commingled with fresh, chilled, or frozen meat of animals from a country where swine vesicular disease is considered to exist resulting in an undue risk of swine vesicular disease introduction into the United States. Therefore, pork or pork products and shipstores, airplane meals, and baggage containing such pork, other than those articles regulated under Part 95 or Part 96 of this chapter, produced in such countries shall not be brought into the United States unless the following requirements are met in addition to other applicable requirements of Part 327, Subchapter A, Chapter III of this title:

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[10] Information as to the identity of approved establishments may be obtained from, and request for approval of any establishment may be made to, the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Establishments will be approved only if the Deputy Administrator, Veterinary Services, determines that the imported articles will be so handled at the establishments as to prevent the introduction and dissemination of livestock or poultry diseases into the United States. Approval of any establishment may be refused or withdrawn only after the operator thereof has been given notice of the proposed action and has had an opportunity to present his views thereon.

[11] The certification required may be placed on the certificate prescribed by section 327.4 or may be contained in a separate document.

(a) All such pork produced shall have been prepared only in establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 et. seq.) and the regulations in section 327.2, Chapter III of this title which are issued thereunder, and shall be accompanied by a Department approved meat inspection certificate prescribed in section 327.4 in Chapter III of this title.

(b) Shipments of such pork or other pork products consigned to the United States, unless they are in compliance with applicable provisions of section 94.12(b), must be accompanied by an additional certificate signed by a full-time salaried veterinary official of the agency in the National Government having responsibility for the health of animals within that country, stating the name and official establishment number of the establishment where the swine involved were slaughtered and the pork was processed and also stating that:

(1) The slaughtering establishment is not permitted to receive animals that originated in, or have ever been in a country listed in section 94.12(a) as a country in which swine vesicular disease is considered to exist:

(2) The slaughtering establishment is not permitted to receive pork derived from swine which originated in such a country or pork from swine from a swine vesicular disease free country which has been transported through a country where swine vesicular disease is considered to exist except pork which was transported in containers sealed with serially numbered seals of the National Government of a country of origin listed in section 94.12 as a country considered free of the disease.

(3) The pork has been processed, stored, and transported to the means of conveyance that will bring the article to the United States in a manner that precludes its being commingled or otherwise coming in contact with pork or pork products that have not been handled in accordance with the requirements of this section 94.13.

Sec. 94.14 Swine from countries where swine vesicular disease exists; importations prohibited.—Whereas it is considered that swine vesicular disease exists in all countries of the world except those listed in section 94.12(a), and that swine which originate in or are shipped from or transit any country except those listed, would, if brought into the United States, be likely to introduce or disseminate swine vesicular disease into the United States, it is hereby further determined that, in order to protect the livestock of the United States, it is necessary to prohibit the movement of such swine into the United States and such movement is hereby prohibited: *Provided*, That wild swine may be brought into the United States in accordance with the provisions of section 92.2 or section 92.4(c) of this chapter upon request to the Deputy Administrator, Veterinary Services, in specific cases.

Sec. 94.15 [Reserved]

Sec. 94.16 Milk and milk products.—(a) The following milk products are exempt from the provisions of this Part: cheese, butter, and butteroil.

(b) Milk and milk products originating in, or shipped from, any country designated in section 94.1(a) as a country infected with rinderpest or foot-and-mouth disease may be imported into the United States if they meet the requirements of paragraph (b) (1), (2), or (3) of this section:

(1) They are in a concentrated liquid form and have been processed by heat by a commercial method in a container hermetically sealed promptly after filling but before such heating, so as to be shelf stable without refrigeration.

(2) They are dry milk or dry milk products, including dry whole milk, nonfat dry milk, dried whey, dried buttermilk, and formulations which contain any such dry milk products, and are consigned directly to an approved establishment[12] for further processing for human food in a manner approved by the Deputy Administrator, Veterinary Services as adequate to prevent the introduction or dissemination of livestock diseases into the United States. However, in specific cases, upon request by the importer to the Deputy Administrator, Veterinary Services, and approval by the Deputy Administrator, they may be stored for a temporary period in an approved warehouse[12] under the supervision of an inspector of the Animal and Plant Health Inspection Service pending movement to an approved establishment. Such products shall be transported from the United States port of first arrival to an approved establishment[12] or an approved warehouse,[12] and from an approved warehouse[12] to an approved establishment[12] only under Department seals or seals of the U.S. Customs Service. Such seals shall be broken only by such an inspector or other person authorized to do so by the Deputy Administrator, Veterinary Services. Such products shall not be removed from the approved warehouse[12] or approved establishment[12] except upon special permission by the Deputy Administrator, Veterinary Services, and upon compliance with all the conditions and requirements specified by him for such movement in each specific case.

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[12] Information as to the identity of approved establishments, warehouses or manner of processing may be obtained from, and request for approval of any such establishment, warehouse or manner of processing may be made to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782. Any establishment or warehouse will be approved for the purpose of this section only if the operator has provided the Deputy Administrator, Veterinary Services, with satisfactory evidence that the establishment or warehouse has the equipment, facilities, and capability to store, handle and process the imported dry milk or dry milk product subject to section 94.16(b)(2) in a manner which will prevent the introduction or dissemination of livestock diseases into the United States. Similarly, processing methods will be approved only if the Deputy Administrator determines they are adequate to prevent the introduction or dissemination of such diseases into the United States. Approval of any establishment or warehouse or processing method may be refused or withdrawn by the Deputy Administrator only after the operator thereof has been given notice of the proposed action and has had an opportunity to present his views thereon, and upon a determination by the Deputy Administrator that the conditions for approval are not met. Approval of an establishment or warehouse may also be withdrawn after such notice and opportunity if the Deputy Administrator determines that such imported dry milk or milk products have been stored, handled, or processed by the operator thereof other than at an approved establishment or warehouse or other than in an approved manner.

(3) Milk and milk products not exempted under paragraph (a) and not of classes included within the provisions of paragraphs (b) (1) or (2) of this section may be imported if the importer first applies to and receives written permission from the Deputy Administrator, Veterinary Services, authorizing such importation. Permission will be granted only when the Deputy Administrator determines that such action will not endanger the health of the livestock of the United States. Products subject to this provision include but are not limited to condensed milk, long-life milks such as sterilized milk, casein and caseinates, lactose, and lactalbumin.

(4) Small amounts of milk and milk products subject to the restrictions of this Part may in specific cases be imported for purposes of examination, testing, or analysis, if the importer applies to and receives written approval for such importation from the Deputy Administrator, Veterinary Services. Approval will be granted only when the Deputy Administrator determines that such action will not endanger the health of the livestock of the United States.

(c) Milk and milk products originating in and shipped from countries listed in section 94.1(a) (2) as free of rinderpest and foot-and-mouth disease but which have entered a port or otherwise transited any country designated in section 94.1(a)(1) as a country infected with rinderpest or foot-and-mouth disease shall not be imported into the United States unless:

(1) The product was transported under serially numbered official seals applied at the point of origin of the shipment by an authorized representative of the country of such origin.

(2) The numbers of such seals are listed on, or are on a list attached to, the bill of lading or similar document accompanying the shipment.

(3) Upon arrival of the carrier at the United States port, an inspector of the Animal and Plant Health Inspection Service determines that the seals are intact and that their numbers are in agreement with the numbers appearing on the accompanying document.

ANIMAL BYPRODUCTS; HAY AND STRAW

Regulations of the Animal Inspection and Quarantine Division, Agricultural Research Service, Department of Agriculture, relating to animal byproducts and hay and grain, Code of Federal Regulations, 1939 Sup., title 9, sections 95.1-95.23, 95.25, 95.27:

Sec. 95.1 Definitions.—Wherever in these regulations the following words, names, or terms are used they shall be construed, respectively, to mean:

(a) *Department.*—United States Department of Agriculture.

(b) *Division.*—The Animal Inspection and Quarantine Division, United States Department of Agriculture.

(c) *Director of Division.*—Director of the Animal Inspection and Quarantine Division.

(d) *Inspector.*—An inspector of the Animal Inspection and Quarantine Division.

(f) *Approved establishment.*—An establishment approved by the Division for the receipt and handling of restricted import animal byproducts.

(g) *Approved warehouse.*—A warehouse having facilities approved by the Division for the handling and storage, apart from other merchandise, of restricted import products.

(h) *Approved chlorinating equipment.*—An equipment approved by the Division as efficient for the disinfection of effluents against the contagions of foot-and-mouth disease and rinderpest.

(i) *Approved sewerage system.*—A drainage system equipped and operated so as to carry and dispose of sewage without endangering livestock through the contamination of streams or fields and approved by the Division.

(j) *Animal byproducts.*—Hides, skins, hair, wool, glue stock, bones, hoofs, horns, bone meal, hoof meal, horn meal, blood meal, meat meal, tankage, glands, organs, or other parts or products of ruminants and swine unsuitable for human consumption.

(k) *Glue stock.*—Fleshings, hide cuttings and parings, tendons, or other collagenous parts of animal carcasses.

(l) *Bone meal.*—"Bone meal" means ground animal bones and hoof meal and horn meal.

(m) *Blood meal.*—Dried blood of animals.

(n) *Meat meal or tankage.*—The rendered and dried carcasses or parts of the carcasses of animals.

(o) *Hay and straw.*—Dried grasses, clovers, legumes, and similar materials or stalks or stems of various grains, such as barley, oats, rice, rye, and wheat.

Sec. 95.2 Country of origin.—No products or materials specified in the regulations in this part shall be imported unless there be shown upon the commercial invoice, or in some other manner satisfactory to the Director of Division, the name of the country of origin of such product or material, provided that the country of origin shall be construed to mean (a) in the case of an animal byproduct, the country in which such product was taken from an animal or animals, and (b) in the case of other materials the country in which such materials were produced.

Sec. 95.3 Byproducts from diseased animals prohibited.—The importation of any animal byproduct taken or removed from an animal affected with anthrax, foot-and-mouth disease, or rinderpest is prohibited.

Sec. 95.5 Untanned hides and skins; requirements for unrestricted entry.—Untanned hides and/or skins of cattle, buffalo, sheep, goats, other ruminants, and swine which do not meet the conditions or requirements specified in any one of paragraphs (a) to (e) following shall not be imported except subject to handling and treatment in accordance with section 95.6 after arrival at the port of entry:

(a) Hides or skins originating in and shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest may be imported without further restriction.

(b) Hides or skins may be imported without other restriction if found upon inspection by an inspector or by certificate of the shipper of importer satisfactory to said inspector, to be hard-dried hides or skins.

(c) Abattoir hides or skins taken from animals slaughtered under national government inspections in a country and in an abattoir in which is maintained an inspection service determined by the Secretary of Agriculture to be adequate to assure that they have been removed from animals found at time of slaughter to be free from anthrax, foot-and-mouth disease, and rinderpest, and to assure further the identity of such materials until loaded upon the transporting vessel, may be imported without other restriction if accompanied by a certificate bearing the seal of the proper department of such national government and signed by an official veterinary inspector of such country showing that the therein described hides or skins were taken from animals slaughtered in such specified abattoir and found free from anthrax, foot-and-mouth disease, and rinderpest.

(d) Hides or skins may be imported without other restriction if shown upon inspection by an inspector, or by certificate of the shipper or importer satisfactory to said inspector, to have been pickled in a solution of salt containing mineral acid and packed in barrels, casks, or tight cases while still wet with such solution.

(e) Hides or skins may be imported without other restriction if shown upon inspection by an inspector, or by certificate of the shipper or importer satisfactory to said inspector, to have been treated with lime in such manner and for such period as to have become dehaired and to have reached the stage of preparation for immediate manufacture into products ordinarily made from rawhide.

Sec. 95.6 Untanned hides and skins; importations permitted subject to restrictions.—Hides or skins offered for importation which do not meet the conditions or requirements of section 95.5 shall be handled and treated in the following manner after arrival at the port of entry:

(a) They shall be consigned from the coast or border port of arrival to an approved establishment and shall be subject to disinfection by such method or methods as the Director of Division may prescribe unless the said establishment discharges drainage into an approved sewerage system or has an approved chlorinating equipment adequate for the proper disinfection of effluents: *Provided*, however, That upon permission of the Director of Division such hides or skins may be stored for a temporary period in approved warehouses under bond, and under the supervision of an inspector: And provided further, That I.T. or in-bond shipments of hides or skins may go forward under customs seals from a coast or border port of arrival, with the approval of an inspector at said port, to another port in the United States for consumption entry subject to the other provisions of this section.

(b) They shall be moved from the coast or border port of arrival, or in cases of I.T. or in-bond shipments from the interior port to the approved establishment in cars or trucks or in vessel compartments with no other materials contained therein, sealed with seals of the department, which shall not be broken except by inspectors or other persons authorized by the Director of Division so to do, or without sealing as aforesaid and with other freight when packed in tight cases or casks acceptable to the inspector in charge at the port of entry.

(c) They shall be handled at the approved establishment under the direction of an inspector in a manner approved by the Director of Division to guard against the dissemination of foot-and-mouth disease and rinderpest. They shall not be removed therefrom except upon special permission of the Director of Division and upon compliance with all the conditions and requirements of this section relative to the movement of the said hides and skins from the port of arrival to the said establishment.

Sec. 95.7 Wool, hair, and bristles; requirements for unrestricted entry.—Wool, hair, or bristles derived from ruminants and/or swine which do not meet the conditions or requirements specified in any one of paragraphs (a) to (d) following shall not be imported except subject to handling and treatment in accordance with section 95.8 after their arrival at the port of entry: *Provided*, however, That no blood-stained wool, hair, or bristles shall be imported under any conditions:

(a) Such wool, hair, or bristles may be imported without other restriction if originating in and shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest.

(b) Wool or hair clipped from live animals or pulled wool or hair may be imported without other restriction if the said wool or hair is reasonably free from animal manure in the form of dung locks or otherwise.

(c) Wool, hair, or bristles taken from sheep, goats, cattle or swine, when such animals have been slaughtered under national government inspection in a country and in an abattoir in which is maintained an inspection service determined by the Secretary of Agriculture to be adequate to assure that such materials have been removed from animals found at time of slaughter to be free from anthrax, foot-and-mouth disease, and rinderpest, and to assure further the identity of such materials until loaded upon the transporting vessel, may be imported without other restriction if accompanied by a certificate bearing the seal of the proper department of said national government and signed by an official veterinary inspector of such country showing that the therein described wool, hair, or bristles were taken from animals slaughtered in such specified abattoir and found free from anthrax, foot-and-mouth disease, and rinderpest.

(d) Wool, hair, or bristles which have been scoured, thoroughly washed, or dyed may be imported without other restriction.

Sec. 95.8 Wool, hair, and bristles; importations permitted subject to restrictions.—Wool, hair, or bristles offered for importation which do not meet the conditions or requirements of section 95.7 shall be handled and treated in the following manner after arrival at the port of entry:

(a) Such wool, hair, or bristles shall be consigned from the coast or border port of arrival to an approved establishment: *Provided*, however, That upon permission by the Director of Division such wool, hair, or bristles may be stored for a temporary period in approved warehouses under bond and under the supervision of an inspector: And provided further, That I.T. or in-bond shipments of wool, hair, or bristles may go forward under customs seals from a coast or border port of arrival, with the approval of an inspector at said port, to another port for consumption entry, subject to the other provisions of this section.

(b) Such wool, hair, or bristles shall be moved from the coast or border port of arrival or, in the case of I.T. or in-bond shipments, from the interior port to the establishment in cars or trucks or in vessel compartments with no other materials contained therein, sealed with seals of the Department, which shall not be broken except by inspectors or other persons authorized by the Director of Division so to do, or without sealing as aforesaid and with other freight when packed in tight cases acceptable to an inspector.

(c) Such wool, hair, or bristles shall be handled at the establishment under the direction of an inspector in a manner approved by the Director of Division to guard against the dissemination of foot-and-mouth disease and rinderpest. Such products shall not be removed therefrom except upon special permission of the Director of Division and upon compliance with all the conditions and requirements of this section relative to the movement of the said wool, hair, or bristles from the port of arrival to the said establishment.

Sec. 95.9 Glue stock; requirements for unrestricted entry.—Glue stock which does not meet the conditions or requirements specified in any one of paragraphs (a) to (c) following shall not be imported except subject to handling and treatment in accordance with section 95.10 after arrival at the port of entry:

(a) Glue stock originating in and shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest may be imported without other restriction.

(b) Glue stock may be imported without other restriction if found upon inspection by an inspector, or by certificate of the shipper or importer satisfactory to said inspector, to have been properly treated by acidulation or by soaking in milk of lime or a lime paste, or to have been dried so as to render each piece of the hardness of a sun-dried hide.

(c) Glue stock taken from cattle, sheep, goats, or swine slaughtered under national government inspection in a country and in an abattoir in which is maintained an inspection service determined by the Secretary of Agriculture to be adequate to assure that such materials have been removed from animals found at time of slaughter to be free from anthrax, foot-and-mouth disease, and rinderpest, and to assure further the identity of such materials until loaded upon the transporting vessel, may be imported without other restriction if accompanied by a certificate bearing the seal of the proper department of said national government and signed by an official veterinary inspector of such country showing that the therein described glue stock was taken from animals slaughtered in such specified abattoir and found free from anthrax, foot-and-mouth disease, and rinderpest.

Sec. 95.10 Glue stock; importations permitted subject to restrictions.—Glue stock offered for importation which does not meet the conditions or requirements of section 95.9 shall be handled and treated in the following manner after arrival at the port of entry.

(a) It shall be consigned from the coast or border port of arrival to an approved establishment and shall be subject to disinfection by such method or methods as the Director of Division may prescribe unless the said establishment discharges drainage into an approved sewerage system or has an approved chlorinating equipment adequate for the proper disinfection of effluents: *Provided, however*, That upon permission by the Director of Division glue stock may be stored for a temporary period in approved warehouses under bond and under the supervision of an inspector: And provided further, That I.T. or in-bond shipments of glue stock may go forward under customs seals from a coast or border port of arrival with the approval of an inspector at said port to another port for consumption entry, subject, after arrival at the latter port, to the other provisions of this section.

(b) It shall be moved from the coast or border port of arrival or, in case of I.T. or in-bond shipments, from the interior port to the establishment in cars or trucks or in vessel compartments with no other materials contained therein, sealed with seals of the Department, which shall not be broken except by inspectors or other persons authorized by the Director of Division so to do, or without sealing as aforesaid and with other freight when packed in tight cases or casks acceptable to an inspector at port of entry.

(c) It shall be handled at the establishment under the direction of an inspector in a manner approved by the Director of Division to guard against the dissemination of foot-and-mouth disease and rinderpest. It shall not be removed therefrom except upon special permission of the Director of Division and upon compliance with all the conditions and requirements of this section relative to the movement of the said glue stock from the port of arrival to the said establishment.

Sec. 95.11 Bones, horns, and hoofs for trophies or museums.—Clean, dry bones, horns, and hoofs, that are free from undried pieces of hide, flesh, and sinew and are offered for entry as trophies or for consignment to museums may be imported without other restrictions.

Sec. 95.12 Bones, horns, and hoofs; importations permitted subject to restrictions.—Bones, horns, and hoofs offered for importation which do not meet the conditions or requirements of section 95.11 shall be handled and treated in the following manner after arrival at the port of entry:

(a) They shall be consigned from the coast or border port of arrival to an approved establishment having facilities for their disinfection or their conversion into products customarily made from bones, horns, or hoofs: *Provided, however*, That I.T. or in-bond shipments of bones, horns, or hoofs may go forward under customs seals from a coast or border port of arrival, with the approval of an inspector at said port, to another port for consumption entry subject to the other provisions of this section.

(b) They shall be moved from the coast or border port of arrival or, in case of I.T. or in-bond shipments, from the interior port to the establishment in cars or trucks with no other materials contained therein, sealed with seals of the Department, which shall not be broken except by inspectors or other persons authorized by the Director of Division so to do, or without sealing as aforesaid and with other freight when packed in tight cases or casks acceptable to an inspector at the port of entry.

(c) They shall be handled at the establishment under the direction of an inspector in a manner to guard against the dissemination of anthrax, foot-and-mouth disease and rinderpest, and the bags, burlap, or other containers thereof, before leaving the establishment, shall be disinfected by heat or otherwise, as directed by the Director of Division or burned at the establishment. They shall not be removed therefrom except upon special permission of the Director of Division and upon compliance with all the conditions and requirements of this section relative to the movement of the said bones, horns, and hoofs.

Sec. 95.13 Bone meal for use as fertilizer or as feed for domestic animals; requirements for entry.—Steamed or degelatinized or special steamed bone meal, which, in the normal process of manufacture, has been prepared by heating bone under a minimum of 20 pounds steam pressure for at least one hour at a temperature of not less than 250° Fahrenheit (121° Centigrade), may be imported without further restrictions for use as fertilizer or as feed for domestic animals if such products are free from pieces of bone, hide, flesh, and sinew and contain no more than traces of hair and wool. Bone meal for use as fertilizer or as feed for domestic animals which does not meet these requirements will not be eligible for entry.

Sec. 94.14 Blood meal, tankage, meat meal, and similar products, for use as fertilizer or animal feed; requirements for entry.—Dried blood or blood meal, lungs or other organs, tankage, meat meal, wool waste, wool manure, and similar products, for use as fertilizer or as feed for domestic animals, shall not be imported except subject to handling and treatment in accordance with paragraphs (a), (b), and (c) of sec. 95.16, unless:

(a) Such products originated in and were shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest; or

(b) The inspector at the port of entry finds that such products have been fully processed by tanking under live steam or by dry rendering.

Sec. 95.15 Blood meal, blood albumin, intestines, and other animal byproducts for industrial use; requirements for unrestricted entry.—Blood meal, blood albumin, bone meal, intestines, or other animal materials intended for use in the industrial arts shall not be imported except subject to handling and treatment in accordance with sec. 95.16, unless such products originated in and were shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest.

Sec. 95.16 Blood meal, blood albumin, intestines, and other animal byproducts for industrial use; importations permitted subject to restrictions.—Blood meal, blood albumin, bone meal, intestines, or other animal materials intended for use in the industrial arts, which do not meet the conditions or requirements of section 95.15 shall be handled and treated in the following manner after arrival at the port of entry:

(a) They shall be consigned from the coast or border port of arrival to an approved establishment: *Provided*, however, That upon permission by the Director of Division they may be stored for a temporary period in approved warehouses under bond and under the supervision of an inspector: And provided further, That I.T. or in-bond shipments of such products may go forward under customs seals from a coast or border port of arrival, with the approval of an inspector at said port, to another port for consumption entry, subject after arrival at the latter port to the other provisions of this section.

(b) They shall be moved from the coast or border port of arrival or, in the case of I.T. or in-bond shipments, from the interior port to the establishment in cars or trucks or in vessel compartments with no other materials contained therein, sealed with seals of the Department, which shall not be broken except by Division inspectors or other persons authorized by the Director of Division so to do, or without sealing as aforesaid and with other freight when packed in tight cases or casks, acceptable to an inspector at the port of entry.

(c) They shall be handled at the establishment under the direction of an inspector in a manner to guard against the dissemination of foot-and-mouth disease and rinderpest. They shall not be removed therefrom except upon special permission of the Director of Division and upon compliance with the conditions and requirements of this section relative to the movement of the said products from the port of arrival to the said establishment.

Sec. 95.17 Glands, organs, ox gall, and like materials; requirements for unrestricted entry—Glands, organs, ox gall or bile, bone marrow, and various like materials derived from domestic ruminants or swine, intended for use in the manufacture of pharmaceutical products shall not be imported except subject to handling and treatment in accordance with sec. 95.18, unless such glands, organs, or materials originated in and were shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest.

Sec. 95.18 Glands, organs, ox gall, and like materials; importations permitted subject to restrictions.—Glands, organs, ox gall or bile, bone marrow, and various like materials derived from domestic ruminants or swine, which do not meet the requirements of section 95.17 of this order may be imported for pharmaceutical purposes if in tight containers and consigned to an approved establishment: *Provided*, however, That upon special permission of the Director of Division they may be stored for a temporary period in approved warehouses under bond and under the supervision of an inspector. They shall be handled and processed at the said establishment in a manner approved by the Director of Division and the containers shall be destroyed or disinfected as prescribed by him. They shall not be removed therefrom except special permission of the Director of Division and upon compliance with all the conditions and requirements of this section relative to the movement of the said glands, organs, ox gall, and like materials from the port of arrival to the said establishment.

Sec. 95.19 Animal stomachs.—Stomachs or portions of the stomachs of ruminants or swine, other than those imported for food purposes under the meat-inspection regulations of the Department, shall not be imported without permission from the Director of Division. Importations permitted shall be subject to such restrictions as the Director of Division may deem necessary in each instance.

Sec. 95.20 Animal manure.—Manure of horses, cattle, sheep, other ruminants, and swine shall not be imported except upon permission from the Director of Division. Importations permitted shall be subject to such restrictions as he may deem necessary in each instance: *Provided, however,* That manure produced by animals while in transit to the United States shall be subject only to the requirements of the Department regulations governing the importation of domestic livestock and other animals.

Sec. 95.21 Hay and straw; requirements for unrestricted entry.—Except as provided in sec. 95.28, hay or straw shall not be imported except subject to handling and treatment in accordance with sec. 95.22 after arrival at the port of entry, unless such hay or straw originated in and was shipped directly from a country not declared by the Secretary of Agriculture to be infected with foot-and-mouth disease or rinderpest.

Sec. 95.22 Hay and straw; importations permitted subject to restrictions.—Except as provided in sec. 95.28, hay or straw which does not meet the conditions or requirements of sec. 95.21 shall be handled and treated in the following manner upon arrival at the port of entry.

(a) Hay or straw packing materials shall be burned or disinfected at the expense of the importer or consignee in the manner and at the time directed by the Director of Division.

(b) Hay or staw for use as feeding material, bedding, or similar purposes shall be stored and held in quarantine for a period of not less than 90 days in an approved warehouse at the port of entry and shall be otherwise handled as directed by the Director of Division.

Sec. 95.23 Previously used meat covers; importations permitted subject to restrictions.—Cloth or burlap which has been used to cover fresh or frozen meats originating in any country designated in sec. 94.1 of this subchapter as a country in which rinderpest or foot-and-mouth disease exists, shall not be imported except under the following conditions:

(a) The cloth or burlap shall be consigned from the coast or border port of arrival to an establishment specifically approved for the purpose by the Director of Division.

(b) The cloth or burlap shall be immediately moved from the coast or border port of arrival, or in case of I.T. or in-bond shipments from the interior port, to the establishment, in railroad cars or trucks, or in vessel compartments, with no other material contained therein, sealed with seals of the Department, which shall not be broken except by inspectors or other persons authorized by the Director of Division: *Provided, however,* That upon permission of the Director of Division, such cloth or burlap may be stored for a temporary period in approved warehouses at the port of arrival under bond and under the supervision of an inspector.

(c) The material shall be disinfected and otherwise handled at the establishment under the direction of an inspector in a manner approved by the Director of Division to guard against the dissemination of foot-and-mouth disease and rinderpest, and the material shall not be removed therefrom, except upon special permission of the Director of Division, until all of the conditions and requirements of this section have been complied with.

* * * * * * *

Sec. 95.25 Transportation of restricted import products; placarding cars and marking billing; unloading en route.—'(a) Transportation companies or other operators of cars, trucks, or other vehicles carrying import products or materials moving under restriction, other than those in tight cases or casks, shall affix to and maintain on both sides of all such vehicles durable placards not less than 5 1/2 by 6 inches in size, on which shall be printed with permanent black ink and in boldface letters not less than 1 1/2 inches in height, the words 'Restricted import product.' These placards shall also bear the words 'Clean and disinfect this car or truck'. Each of the waybills, conductors' manifests, memoranda, and bills of lading pertaining to such shipments shall have the words 'Restricted import product, clean and disinfect car or truck', plainly written or stamped upon its face. If for any reason the placards required by this regulation have not been affixed to each car, or the billing has not been marked by the initial or the connecting carrier, or the placards have been removed, destroyed, or rendered illegible, the placards shall be immediately affixed or replaced and the billing marked by the initial or connecting carrier, the intention being that the billing accompanying the shipment shall be marked and each car, truck or other vehicle placarded as herein specified from the time such shipment leaves the port of entry until it is unloaded at final destination and the cars, trucks, or other vehicles are cleaned and disinfected as required by section 95.26.

(b) If it is necessary to unload en route any of the materials or products transported in a placarded car, truck or other vehicle as hereinbefore provided in this section, the car, truck, or other vehicle from which the transfer is made and any part of the premises in or upon which the product or material may have been placed in the course of unloading or reloading shall be cleaned and disinfected by the carrier, in accordance with the provisions of section 95.26 and the said carrier shall immediately report the matter, by telegraph, to the Director of Animal Inspection and Quarantine Division, Washington, D.C. Such report shall include the following information: Nature of emergency; place where product or material was unloaded; original points of shipment and destination; number and initials of the original car or truck; and number and initials of the car, truck, or other vehicle into which the product or material is reloaded in case the original car or truck is not used.

Sec. 95.27 Regulations applicable to products from territorial possessions.—The regulations in this part shall be applicable to all the products and materials specified in this part which are offered for entry into the United States from any place under the jurisdiction of the United States to which the animal-quarantine laws of this country do not apply.

Sec. 95.28 Hay or straw, and similar material from tick-infested areas.—Hay or straw, grass, or similar material from tick-infested pastures, ranges, or premises may disseminate the contagion of splenetic, Southern or Texas fever when imported for animal feed or bedding; therefore, such hay or straw, grass, or similar material shall not be imported unless such material is first disinfected with a disinfectant specified in sec. 95.26 (d).

IMPORTATION OF FOREIGN ANIMAL CASINGS RESTRICTED

Regulations of the Animal Inspection and Quarantine Division of the U.S. Department of Agriculture, restricting the importation of foreign animal casings, Code of Federal Regulations, title 9, sections 96.1, 96.2 (BAI Order 305):

Sec. 96.1 Form of certificate.—It is hereby ordered that no animal casings shall be admitted into the United States from any foreign country unless and until they are accompanied by a certificate bearing the signature of the national government official having jurisdiction over the health of animals in the country in which the casings originated. The certificate shall be in the following form:

FOREIGN OFFICIAL CERTIFICATE FOR ANIMAL CASINGS

Place ______________________ Date ______________________
(City) (Country)

I hereby certify that the animal casings herein described were derived from healthy animals (cattle, sheep, swine or goats), which received ante-mortem and post-mortem veterinary inspections at the time of slaughter, are clean and sound, and were prepared and handled only in a sanitary manner and were not subjected to contagion prior to exportation.

Kind of casings	Number of packages	Weight

Identification marks on the packages ______________________
Consignor ______________ Address ______________ ______________
Consignee ______________ Destination ______________________
Shipping marks ______________________
(Signature) ______________ (Signature) ______________________
(Official issuing the certificate) (Official of the national government having jurisdiction over the health of animals in the country in which the casings originated.)
(Official title) ______________ (Official title) ______________________

(Sec. 2, 32 Stat. 792; 21 U.S.C. 111) [BAI Order 305, Mar. 7, 1927]

Sec. 96.2 Uncertified animal casings; disposition.—Animal casings which are unaccompanied by the required certificate, and those found upon inspection to be unclean or unsound when offered for importation into the United States, shall be kept in Customs custody until exported or destroyed, or until disinfected and denatured as prescribed by the Director of the Animal Inspection and Quarantine Division in section 96.3-96.15. (Sec. 2, 32 Stat. 792; 21 U.S.C. 11) [BAI Order 305, Mar. 7, 1927.]

XIII. IMPORTATION OF MEAT AND MEAT-FOOD PRODUCTS

Regulations of the Animal and Plant Health Inspection Service, Department of Agriculture, relating to the importation of meat and meat-food products, Code of Federal Regulations, Title 9, Part 327.

Sec. 327.1 Application of provisions.—The provisions of this part shall apply to products derived from cattle, sheep, swine, goats, horses, mules, and other equines, if capable of use as human food. Compliance with the conditions for importation of products under this part does not excuse the need for compliance with applicable requirements under other laws, including the provisions in Parts 94, 95, and 96 of Chapter I of this title.

Sec. 327.2 Eligibility of foreign countries for importation of products into the United States.—(a)(1) Whenever it shall be determined by the Administrator that the system of meat inspection maintained by any foreign country, with respect to establishments preparing products in such country for export to the United States, insures compliance of such establishments and their products with requirements at least equal to all the inspection, building construction standards, and all other provisions of the Act and the regulations in this subchapter which are applied to official establishments in the United States, and their products, and that reliance can be placed upon certificates required under this part from authorities of such foreign country, notice of that fact will be given by including the name of such foreign country in paragraph (b) of this section. Thereafter, products prepared in such establishments which are certified and approved in accordance with subparagraph (3) of this paragraph, shall be eligible so far as this subchapter is concerned for importation into the United States from such foreign country after applicable requirements of this subchapter have been met.

(2) The determination of acceptability of a foreign meat inspection system for purposes of this section shall be based on an evaluation of the foreign program in accordance with the following requirements and procedures:

(i) The system shall have a program organized and administered by the national government of the foreign country. The system as implemented must provide standards at least equal to those of the Federal system of meat inspection in the United States with respect to:

(a) Organizational structure and staffing, so as to insure uniform enforcement of the requisite laws and regulations in all establishments throughout the system at which products are prepared for export to the United States;

(b) Ultimate control and supervision by the national government over the official activities of all employees or licensees of the system;

(c) The assignment of competent, qualified inspectors;

(d) Authority and responsibility of national inspection officials to enforce the requisite laws and regulations governing meat inspection and to certify or refuse to certify products intended for export;

(e) Adequate administrative and technical support;

(f) Other requirements of adequate inspection service as required by the regulations in this subchapter.

(ii) The legal authority for the system and the regulations thereunder shall impose requirements at least equal to those governing the system of meat inspection organized and maintained in the United States with respect to:

(a) Ante-mortem inspection of animals for slaughter, which shall be performed by veterinarians or by other employees or licensees of the system under the direct supervision of veterinarians;

(b) Post-mortem inspection of carcasses and parts thereof at time of slaughter, performed by veterinarians or other employees or licensees of the system under the direct supervision of veterinarians;

(c) Official controls by the national government over establishment construction, facilities, and equipment;

(d) Direct and continuous official supervision of slaughtering and preparation of product, by the assignment of inspectors to establishments certified under subparagraph (3) of this paragraph, to assure that adulterated or misbranded product is not prepared for export to the United States;

(e) Complete separation of establishments certified under subparagraph (3) of this paragraph from establishments not certified and the maintenance of a single standard of inspection and sanitation throughout all certified establishments;

(f) Requirements for sanitation at certified establishments and for sanitary handling of product;

(g) Official controls over condemned material until destroyed or removed and thereafter excluded from the establishment;

(h) Other matters for which requirements are contained in the Act or regulations in this subchapter.

(iii) Countries desiring to establish eligibility for importation of product into the United States may request a determination of eligibility by presenting copies of the laws and regulations on which the foreign meat inspection system is based and such other information as the Administrator may require with respect to matters enumerated in subdivisions (i) and (ii) of this subparagraph. Determination of eligibility is based on a study of the documents and other information presented and an initial review of the system in operation by a representative of the Department using the criteria listed in subdivisions (i) and (ii) of this subparagraph. Maintenance of eligibility of a country for importation of products into the United States depends on the results of periodic reviews of the foreign meat inspection system in operation by a representative of the Department, and the timely submission of such documents and other information related to the conduct of the foreign inspection system, including information required by paragraph (e) of section 20 of the Act, as the Administrator may find pertinent to and necessary for the determinations required by this section of the regulations.

(iv) The foreign inspection system must maintain a program of periodic supervisory visits to each establishment certified in accordance with subparagraph (3) of this paragraph to assure that requirements referred to in (a) through (h) of subdivision (ii) of this subparagraph, at least equal to those of the Federal system of meat inspection of the United States, are being met. A representative of the foreign inspection system shall make at least one such supervisory visit each month to each such establishment and prepare a written report of his findings in respect to the requirements referred to in (a) through (h) of subdivision (ii) of this subparagraph, copies of which shall be available to the representative of the Department at the time of his review upon request by said representative to a responsible foreign meat inspection official: *Provided*, That such visits and reports are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States.

(3) Only those establishments that are determined and certified to the Department by a responsible official of the foreign meat inspection system as fully meeting the requirements of subparagraphs (2) (i) and (ii) of this paragraph are eligible to have their products imported into the United States. Eligibility of certified establishments is subject to review by the Department (including observations of the establishments by Program representatives at times prearranged with the officials of the foreign meat inspection system). Certifications of establishments must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may, at his discretion, terminate the eligibility of any foreign establishment for importation of its products into the United States if he has information that such establishment does not comply with the requirements listed in subparagraphs (2) (i) and (ii) of this paragraph or if he cannot obtain current information concerning such establishment. The Administrator will provide reasonable notice to the foreign government of the proposed termination of eligibility of any foreign establishment for importation of its products into the United States unless, in his judgment, delay in terminating its eligibility could result in the importation of adulterated or misbranded product. Certifications of official establishments by the responsible official of the foreign meat inspection system shall be in the following form:

FOREIGN OFFICIAL MEAT ESTABLISHMENT CERTIFICATE

I hereby certify that the establishment(s) listed below fully comply (complies) with requirements of (specify foreign country) at least equal to all the inspection, building construction standards, and other requirements for the slaughter and preparation of the carcasses, parts thereof, meat and meat food products of cattle, sheep, swine, goats, and equines applied to official establishments in the United States under the Federal Meat Inspection Act and otherwise meet (meets) the requirements of sec. 327.2(a) of the regulations governing meat inspection of the U.S. Department of Agriculture.

Control numbers	Name	Address
....	....	....
....	....	....
....	....	....

Date ....

Signature ....

Official Title ....

(4) Product of cattle, sheep, swine, and goats from foreign countries not listed in paragraph (b) of this section and product of equines from countries not listed in paragraph (c) of this section is not eligible for importation into the United States, except as provided by section 327.16 or section 327.17. The listing of any foreign country under this section may be withdrawn whenever it shall be determined by the Administrator that the system of meat inspection maintained by such foreign country does not assure compliance with requirements at least equal to all the inspection, building construction standards, and other requirements of the Act and the regulations in this subchapter as applied to official establishments in the United States; or that reliance cannot be placed upon certificates required under this part from authorities of such foreign country; or that, for lack of current information concerning the system of meat inspection being maintained by such foreign country, such foreign country should be required to reestablish its eligibility for listing.

(b) It has been determined that product of cattle, sheep, swine, and goats from the following countries, covered by foreign meat inspection certificates of the country of origin as required by section 327.4, except fresh, chilled, or frozen or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest, or of foot-and-mouth disease, or of African swine fever exists as provided in Part 94 of this title, is eligible under the regulations in this subchapter for importation into the United States after inspection and marking as required by the applicable provisions of this part.

Argentina.
Australia.
Austria.
Belgium.
Belize.
Brazil.
Bulgaria.
Canada.
Colombia.
Costa Rica.
Czechoslovakia.
Denmark.
Dominican Republic.
El Salvador.
England and Wales.
Finland.
France.
Germany (Federal Republic).
Guatemala.
Haiti.
Honduras.
Hungary.
Iceland.
Ireland (Eire).
Italy.
Japan.
Luxembourg.
Mexico.
Netherlands.
New Zealand.
Nicaragua.
Northern Ireland.
Norway.
Panama.
Paraguay.
Poland.
Romania.
Scotland.
Spain.
Sweden.
Switzerland.
Trust Territory of the Pacific islands.
Uruguay.
Venezuela.
Yugoslavia.

(c) It has been determined that product of equines from the following countries, covered by foreign meat inspection certificates of the country of origin as required by section 327.4, is eligible under the regulations in this subchapter for importation into the United States after inspection and marking as required by the applicable provisions of this part.

Argentina.
Canada.
Mexico.
New Zealand.
Paraguay.

Sec. 327.3 No product to be imported without compliance with applicable regulations.—(a) No product offered for importation from any foreign country shall be admitted into the United States if it is adulterated or misbranded or does not comply with all the requirements of this subchapter that would apply to it if it were a domestic product.

(b) No fresh or cured meat or meat trimmings in pieces too small to permit adequate inspection upon arrival shall be admitted into the United States. Individual pieces or trimmings must not be smaller than 2-inch cubes or pieces comparable in size. Except as provided in paragraph (c) of this section, processed meat food products prepared with meat pieces smaller than 2-inch cubes or pieces comparable in size shall not be permitted entry except under the following conditions:

(1) Ground or comminuted meats may be imported in labeled containers of not more than 3 pounds net weight.

(2) Chopped steaks, meat patties, meat loaves, sectioned and formed or ground and formed meat products and products of similar type may be imported in labeled containers of not more than 10 pounds net weight.

(3) Sausages and canned meat products may be imported in labeled containers of a size suitable for retail sale and distribution to consumers.

(4) Meat extracts may be imported in labeled containers of any size.

(c) No cooked or partially cooked meat or meat trimmings, either in separable pieces or molded into larger forms, shall be permitted entry except under the following conditions:

(1) A complete procedure for preparing and handling the product in the foreign country and en route to the United States shall be submitted by the exporter or his authorized agent to the Administrator and determined by the Administrator to be adequate to assure that the product will not be adulterated or misbranded at the time of offer for entry.

(2) A system acceptable to the Administrator (upon his determination that the system will provide a reliable indication of the kinds and numbers of microorganisms present) for the microbiological testing of the finished product shall be installed by the processor, the product is subjected to such testing, and the results thereof are furnished to the Administrator and are acceptable to him as showing that the product has been prepared and handled in a sanitary manner.

(d) Further, no carcasses or parts of carcasses of livestock offered for importation from which naturally associated tissues such as the peritoneum, pleura, body lymph glands, or the portal glands of the liver have been removed, shall be admitted into the United States.

Sec. 327.4 Imported products; foreign certificates required.—(a) Except as provided in section 327.16, each consignment containing any fresh meat or fresh meat byproducts consigned to the United States from a foreign country shall be accompanied by a foreign meat-inspection certificate for fresh meat and meat byproducts in the following form:

ORIGINAL

OFFICIAL MEAT-INSPECTION CERTIFICATE FOR FRESH MEAT AND MEAT BYPRODUCTS

Place .... Date ....
(City) (Country)

I hereby certify that the meat and meat byproducts herein described were derived from livestock which received ante-mortem and post-mortem veterinary inspections at time of slaughter in plants certified for importation of their products into the United States and are not adulterated or misbranded as defined by the regulations governing meat inspection of the U.S. Department of Agriculture; and that said products have been handled in a sanitary manner in this country and are otherwise in compliance with requirements at least equal to those in the Federal Meat Inspection Act and said regulations

Kind of product	Species of livestock derived from	Number of pieces or containers	Weight
....	....	....	....
....	....	....	....
....	....	....	....

Identification marks on products and containers ....
....
Consignor ....
Address ....
Establishment number ....
Consignee ....
Destination ....
Shipping marks ....

(Signature) ....
(Name of official authorized by the national foreign government to issue inspection certificates for meat and meat byproducts exported to the United States)

(Official title) ....

(b) Except as provided in section 327.16, each consignment containing any meat food product consigned to the United States from a foreign country shall be accompanied by a foreign meat-inspection certificate for meat food products in the following form:

ORIGINAL

OFFICIAL MEAT-INSPECTION CERTIFICATE FOR FRESH MEAT FOOD PRODUCTS

Place .... Date ....
(City) (Country)

I hereby certify that the meat food products herein described were derived from livestock which received ante-mortem and post-mortem veterinary inspections at time of slaughter in plants certified for importation of their products into the United States, were handled in a sanitary manner, and were prepared under the continuous supervision of an inspector under control of the national meat inspection and that said meat food products are not adulterated or misbranded as defined by the regulations governing meat inspection of the U.S. Department of Agriculture, and are otherwise in compliance with requirements at least equal to those in the Federal Meat Inspection Act and said regulations.

I further certify that all products herein described that are prepared customarily to be eaten without cooking and contain muscle tissue of pork were treated for destruction of trichinae as prescribed in section 318.10 of the Meat Inspection Regulations of the U.S. Department of Agriculture.

Kind of product	Species of livestock derived from	Number of pieces or containers	Weight
....	....	....	....
....	....	....	....
....	....	....	....
....	....	....	....

Identification marks on products and containers ....
....
Consignor ....
Address ....
Establishment number ....
Consignee ....
Destination ....
Shipping marks ....

(Signature) ....
(Name of official authorized by the national foreign government to issue inspection certificates for meat food products exported to the United States)

(Official title) ....

(c) Each foreign meat-inspection certificate shall bear the official seal of the national government agency responsible for the inspection of the product and be signed and issued by an official authorized to sign and issue such certificates by the national government of the foreign country in which the product is inspected.

(d) Each foreign meat-inspection certificate shall be in both the English language and the language of the foreign country of origin.

(e) The foreign meat-inspection certificate required by this section to accompany each consignment containing any product shall be delivered by the consignee, or his agent, in the United States to the Program inspector at the place of inspection, and inspection of the product will not be commenced prior to such delivery.

Sec. 327.5 Importer to make application for inspection of products for importation; information required.—(a) Each importer shall apply for inspection of any product for importation to the officer in charge, if one is stationed at the port where such product is to be offered for entry. Otherwise, application for inspection shall be made to the Administrator, "Animal and Plant Health Inpsection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) The application should be made as long as possible in advance of the anticipated arrival of each consignment, except in case of consignments of products expressly exempted from inspection by sections 327.16 and 327.17.

(c) Each application shall state the approximate date on which the consignment is due to arrive at such port in the United States, the name of the ship or other carrier transporting it, the name of the country from which the product was, or is to be, shipped, the place where inspection is desired in accordance with section 327.6, the quantity and kind of product, and whether it is fresh, cured, canned or otherwise prepared. In case of consignments arriving in the United States by water, the application shall also state the port of first arrival in the United States.

Sec. 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.—(a) Except as provided in sections 327.16 and 327.17, all products offered for importation from any foreign country shall be inspected by a Program inspector before they shall be admitted into the United States.

(b) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Directory of Meat and Poultry Inspection Program Establishments, Circuits and Officials, published by the Animal and Plant Health Inspection Service. The listing will categorize the kind or kinds of product[2] which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(c) Owners or operators of facilities, other than official establishments, who want to have import inspections made at their facilities, shall apply to the Administrator for approval of their facilities for such purpose. Application shall be made on a form furnished by the Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C., and shall include all information called for by that form.

(d) Each applicant seeking approval of his facilities for import inspections shall submit to the Administrator necessary drawings with specifications to determine compliance with the requirements of this section. Approval shall be sought in accordance with section 304.2(a) of this subchapter. Submission of drawings is not required if the applicant's facilities are operated under a State inspection program in a State not listed in section 331.2 of this subchapter.

(e) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of sections 304.2(e), 307.1, 307.2(b), (d), (f), (h), ([illegible]), and (l) and 308.3, 308.4, 308.5, 308.6, 308.7, 308.8, 308.9, 308.11, 308.13, 308.14, and 308.15 of this subchapter shall apply as conditions for approval of facilities as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

(f) The Administrator is authorized to approve any facility as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such facility meets the requirements under paragraph (e) of this section. If it is determined that the facility does not meet such requirements, approval of the facility as an official import inspection establishment may be refused in accordance with the applicable rules of practice. A written notice, specifying the premises to which the approval applies, shall be given to each applicant granted approval. When approval is refused for any such reason, the applicant shall be informed of the action and the reason therefor. Approval may also be refused in accordance with section 401 of the act and applicable rules of practice.

(g) Approval of an official import inspection establishment may be withdrawn in accordance with applicable rules of practice if it is determined that the sanitary conditions are such that the product is rendered adulterated, that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with. Approval may also be withdrawn in accordance with section 401 of the Act and applicable rules of practice.

(h) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

(i) A sufficient sampling inspection shall be made of each consignment of foreign chilled fresh or frozen fresh meat, including defrosting if necessary, to determine its condition. Inspection standards for foreign chilled fresh or frozen fresh meat shall be the same as those used for domestic chilled fresh or frozen fresh meat. (See section 327.21).

(j) Foreign canned products are required to be sound, healthful, wholesome, and otherwise not adulterated at the time they are offered for importation into the United States. Provided other requirements of this part are met, the determination of the acceptability of the product and the condition of the containers shall be based on the results of an examination of a statistical sample drawn from the consignment in accordance with instructions to Program inspectors. If the examination of the sample discloses that the product or the containers do not meet the acceptance level prescribed in the instructions, the consignment shall be refused entry. However, a consignment rejected for container defects but otherwise acceptable may be reoffered for inspection under the following conditions: (1) If the number and kinds of container defects found in the original sample do not exceed limits specified for this purpose in such instructions; and (2) if the defective cans in the consignment have been sorted out and reexported or destroyed under supervision of an inspector.

(k) Program inspectors or Customs officers at border or seaboard ports shall report the sealing of cars, trucks, or other means of conveyance, and the sealing or identification of containers of foreign product on Form MP-410 to Program area supervisors at points where such product is to be inspected.

(1) Representative samples of canned product designated by the Administrator in instructions to Program inspectors shall be incubated under supervision of such inspectors by holding the samples for no less than 10 days at 95 ± 2° F. The necessary incubation facilities shall be provided by the importers or their agents.

(m) Pamphlets detailing the sampling plans, acceptance levels, and other requirements in connection with inspection of imported products as set forth in the instructions to inspectors under paragraphs (1) and (n) of this section will be furnished to interested persons upon request.

Sec. 327.7 Products for importation; movement prior to inspection; sealing; handling; bond; assistance.—(a)(1) No product required by this part to be inspected shall be moved, prior to inspection, from the port of first arrival in the United States, or, if arriving by water, from the wharf where unloaded, unless it is conveyed in cars, trucks, or other means of conveyance, sealed in compliance with this section or in containers corded and sealed or otherwise identified in accordance with this section, except when such sealing and identification are deemed not to be necessary by the area supervisor because other equally adequate controls are used.

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[2] For example: Canned product, boneless meat, carcasses and cuts.

(2) Cars, trucks, other means of conveyance, or containers in which any product is conveyed in accordance with this part, prior to inspection, from the port of first arrival in the United States, or, if arriving by water, from the wharf where unloaded, shall be sealed with Customs seals or official import meat seals of the Department as prescribed in section 312.5(b) of this subchapter or, in the case of containers, otherwise identified as provided for in subparagraph (3) of this paragraph, except when such sealing and identification are deemed not to be necessary by the officer in charge because other equally adequate controls are used. Containers shall be securely corded before being offered for sealing. Official import meat seals shall be affixed by Program inspectors unless there is no Program inspector assigned to such port or wharf where the product is entered, in which case the seals shall be affixed by Customs officers.

(3) In lieu of cording and sealing containers, the carrier or importer may furnish and attach to each outside container of product a warning notice on bright yellow paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

Notice

This container of meat or meat product must be delivered intact to an inspector of the Meat and Poultry Inspection Programs, U.S. Department of Agriculture.

Warning

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond. If the product is found to be acceptable upon inspection the container will be marked as U.S. inspected and passed and this warning notice defaced.

(b) No person shall affix, break, alter, deface, mutilate, remove, or destroy any official import meat seal of the Department, except Customs officers or Program inspectors or as provided for in paragraph (h) of this section.

(c) No product shall be removed from any car, wagon, other means of conveyance, or container sealed with an official import meat seal of the Department except under the supervision of a Program inspector or a Customs officer, or as provided for in paragraph (h) of this section.

(d) No product required by this part to be inspected shall be moved, prior to inspection from any port, or, if arriving by water from the wharf where first unloaded, to any place other than the place designated by, or in accordance with, this part as the place where the same shall be inspected.

(e) No product required by this part to be inspected shall be conveyed, prior to inspection, from any port, or, if arriving by water, from the wharf where first unloaded, in any manner other than in compliance with this part.

(f) No product required by this part to be inspected shall be delivered to the consignee or his agent prior to inspection, unless the consignee shall furnish a bond, in form prescribed by the Secretary of the Treasury, conditioned that the product shall be returned, if demanded, to the district director of the port where the same is offered for clearance through the Customs.

(g) The consignee or his agent shall provide such assistance as Program inspectors may require for the handling and marking of product offered for entry.

(h) In case of a wreck or similar extraordinary emergency, the official import meat seal of the Department on a car, truck, or other means of conveyance may be broken by the carrier, and, if necessary, the articles may be reloaded into another means of conveyance for transportation to destination. In all such cases, the carrier shall immediately report the facts by telegraph to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Such report shall include the following information:

(1) Nature of the emergency.

(2) Place where seals were broken.

(3) Points of shipment and destination.

(4) Identity of the means of conveyance, such as the initials and number of the car.

(5) Identity of the means of conveyance into which the articles are loaded.

(6) Kind and quantity of articles.

Sec. 327.8 *Import products; equipment and means of conveyance used in handling to be maintained in sanitary condition.*—Compartments of steamships, sailing vessels, railroad cars, and other means of conveyance transporting any product to the United States, and all trucks, chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling any product offered for importation into the United States shall be maintained in a sanitary condition.

Sec. 327.9 *Burlap wrapping for foreign meat.*—Burlap shall not be used as a wrapping for foreign meat unless the meat is first wrapped with a good grade of paper or cloth of a kind which will prevent contamination with lint or other foreign material.

Sec. 327.10 *Samples; inspection of consignments; refusal of entry; marking.*—(a) Program inspectors may take, without cost to the United States, for laboratory examination, samples of any product which is subject to analysis, from each consignment offered for importation, except that such samples shall not be taken of any product offered for importation under section 327.16.

(b) The outside containers of all products offered for importation from any foreign country and accompanied with a foreign inspection certificate as required by this part, which, upon inspection by Program inspectors, are found not to be adulterated or misbranded and to be otherwise eligible for entry into the United States under this part, or the products themselves if not in containers, shall be marked with the official inspection legend prescribed in section 312.7 of this subchapter. All products so marked, in compliance with this part, shall be admitted into the United States, insofar as such admittance is regulated under the Act.

(c) If the inspection of the portion of product withdrawn from a consignment indicates that the consignment is adulterated or misbranded or otherwise is not eligible for entry under this part, the consignment shall be identified as "U.S. Refused Entry" and handled as prescribed in section 327.13(a). The consignments refused entry may be marked "U.S. Refused Entry" if the area supervisor deems such marking necessary to maintain their identity.

Sec. 327.11 Receipts to importers for import product samples.—In order that importers may be assured that samples of foreign products collected for laboratory examination are to be used exclusively for that purpose, official receipts shall be issued and delivered to importers, or their agents, by inspectors for all samples of foreign products collected. The official receipt shall be prepared in duplicate, over the signature of the inspector who collects the samples, and shall show the name of the importer, country of origin, quantity and kind of product collected, date of collection, and that the sample was collected for laboratory examination. The duplicate copy of the receipt shall be retained by inspectors in charge as their office record.

Sec. 327.12 Foreign canned or packaged products bearing trade labels; sampling and inspection.—(a) Samples of foreign canned or packaged products bearing on their immediate containers trade labels which have not been approved under section 317.3 of this subchapter shall be collected and forwarded to the laboratory by the Program inspector for examination, and the products shall be held pending receipt of the report of the laboratory findings and the results of the examination of trade labels and the marks on shipping containers.

(b) Foreign canned or packaged products bearing trade labels and other markings which have been approved under section 317.3 of this subchapter shall be inspected for soundness and checked for net weight. Samples may be collected for laboratory examination, but the products may be released under Customs' bond pending the report of laboratory findings.

(c) A sample shall be taken from each consignment of foreign canned products or packaged products. The method of sample selection and the sample size shall be prescribed in instructions to Program employees.[1]

Sec. 327.13 Foreign products offered for importation; reporting of findings to Customs; handling of articles refused entry.—(a) Program inspectors shall report their findings as to any product which has been inspected in accordance with this part, to the Director of Customs at the port where the same is offered for clearance through the Customs, and shall request the Director to refuse admission to any product which is designated as "U.S. refused entry", and to direct that the same be exported by the consignee within the time specified in this section, unless the consignee, within such specified time shall cause the destruction thereof for human food purposes under the supervision of a Program Inspector: *Provided*, That in the case of product refused entry solely because of misbranding, in lieu of exportation or destruction the product may be brought into compliance with the requirements of this part, under supervision of an authorized representative of the Administrator. Such specified time shall be 30 days after such notice is given to the Customs officer, unless a different time is fixed by the Administrator upon application to him. If any such product is destroyed for human food purposes or misbranded product is brought into compliance under this paragraph, under the supervision of a Program inspector, he shall give prompt notice thereof to the Director.

(b) Upon the request of the Director of Customs at the port where a product is offered for clearance through the Customs, the consignee of the product shall, at his own expense, immediately return to the Director any product which has been delivered to consignee under section 327.7 and subsequently designated "U.S. refused entry" or found in any respect not to comply with the requirements in this part. All such product shall be returned in cars, trucks, or other means of conveyance, or in corded containers, sealed with the official import meat seal of the Department unless such sealing is deemed not to be necessary by the area supervisor because other equally adequate controls are used.

(c) All charges for storage, cartage, and labor with respect to any product which was imported contrary to the Act shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such product and any other product thereafter imported by or for such owner or consignee.

Sec. 327.14 Marking of products and labeling of immediate containers thereof for importation.—(a) Product which is offered for importation, and which is susceptible of marking, shall, whether or not enclosed in an immediate container, bear the name of the country of origin, preceded by the words "product of"; the establishment number assigned by the foreign meat inspection system and certified to the Program; and such other markings as are necessary for compliance with Part 316 of this subchapter. When such markings are imprints of stamps or brands made with branding ink, such ink shall be harmless and shall create permanent imprints. In case the name of the country of origin appears as part of an official mark of the national foreign government and such name is prominently and legibly displayed, the words "product of" may be omitted.

(b) In addition to the marking of products required under paragraph (a) of this section, the immediate container of any product offered for importation:

(1) Shall bear a label showing in accordance with section 317.2 of this subchapter all information required by that section (except that the establishment number assigned by the foreign meat inspection system and certified to the Program and the official inspection mark of the foreign meat inspection system shall be shown instead of the official inspection legend of the United States) and in addition the name of the country of origin preceded by the words "product of," immediately under the name or descriptive designation of the product as required by section 317.2: *Provided*, That such establishment number may be omitted from a label lithographed directly on a

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[1] The instructions may be obtained, upon request, from the Technical Services, Meat and Poultry Inspection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

can if said number is lithographed or embossed elsewhere on the can; and

(2) Shall, if such immediate container is a sealed metal container, have the establishment number assigned by the foreign meat inspection authority and certified by the Program embossed or lithographed on the sealed metal container, and such establishment number shall not be covered or obscured by any label or other means.

(c) All marks, and other labelings for use on or with immediate containers, as well as private brands on carcasses or parts of carcasses shall be submitted for approval, to the Labels and Packaging Staff, Meat and Poultry Inspection, Animal and Plant Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, and approved as provided in Part 317 of this subchapter, before products bearing such marks, labeling or brands will be admitted into the United States: *Provided*, That the marks of inspection of foreign systems embossed on metal containers or branded on carcasses or parts thereof need not be submitted for approval; and stencils, box dies, labels, and brands may be used on such immediate containers as tierces, barrels, drums, boxes, crates, and large-size fiberboard containers of foreign products provided the markings made by such articles are applicable to the product and are not false or misleading and are used with the approval of the inspector in charge.

Sec. 327.15 Outside containers of foreign products; marking and labeling; application of official inspection legend.—(a) The outside container in which any immediate container of foreign product is shipped to the United States shall bear, in English, in a prominent and legible manner:

(1) The name or descriptive designation of the product in accordance with section 317.2 of this subchapter;

(2) The name of the country of origin; and

(3) The establishment number assigned by the foreign meat inspection system and certified to the Program.

(b) All labeling used with an outside container of foreign product must be approved in accordance with Part 317 of this subchapter.

(c) All outside containers of products which have been inspected and passed in accordance with this part shall be marked by a Program employee or under his supervision with the official import meat inspection mark prescribed in section 312.7.

Sec. 327.16 Small importations for importer's own consumption; requirements.—Any product offered for importation in a quantity of 50 pounds or less which was purchased by the importer outside the United States for his own consumption, is eligible for importation into the United States from any country without compliance with the provisions in other sections of this part but subject to applicable requirements under other laws, including the regulations in Part 94 of this title. However, Program employees may inspect any product offered for importation under this section to determine whether it is within the class eligible for importation under this paragraph. Products imported in compliance with this paragraph may be transported to their destination in the course of importation or subsequently in commerce if covered by a certificate as required by section 325.12 of this subchapter.

Sec. 327.17 Returned U.S. inspected and marked products.—U.S. inspected and passed and so marked products exported to and returned from foreign countries will be admitted into the United States without compliance with this part upon notification to and approval of the Deputy Administrator, Meat and Poultry Inspection Field Operations, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, in specific cases.

Sec. 327.18 Imported products to be handled and transported as domestic; entry into official establishments; exception.—(a) All imported products, after entry into the United States, shall be deemed and treated as domestic products and shall be subject to the applicable provisions of the Act and the regulations in this subchapter and the applicable requirements under the Federal Food, Drug, and Cosmetic Act, except that products imported under section 327.16 are required to comply only with the requirements of that Act and sections 327.16 and 325.12 of this subchapter.

(b) Imported products inspected, passed, and marked in accordance with this part may, subject to the provisions of Part 318 of this subchapter, be taken into official establishments and be mixed with or added to any product in such establishments which has been inspected and passed therein.

(c) Imported product which has been inspected, passed, and marked under this part may be transported in the course of importation or subsequently in commerce only upon compliance with Part 325 of this subchapter.

Sec. 327.19 Specimens for laboratory examination and similar purposes.—The provisions in this part do not apply to specimens of products for laboratory examination, research, or similar purposes when authorized importation by the Administrator under conditions specified by him in specific cases, including requirements of denaturing or other identification to deter their use for human food. Authorization will not be given for the importation of any products contrary to the provisions of Part 94 of this chapter.

Sec. 327.20 Importation of foreign inedible fats.—No inedible grease, inedible tallow, or other inedible rendered fat shall be admitted into the United States unless it has been first denatured as prescribed in section 325.13 of this subchapter and the containers marked as prescribed by section 316.15 of this subchapter or unless it is identified and handled as prescribed by section 325.11 (c) or (d) of this subchapter.

Sec. 327.21 Special inspection procedures for chilled fresh or frozen boneless manufacturing meat.—(a) *Definitions;* sampling; standards. (1) Frozen boneless manufacturing meat is meat, frozen in the fresh state from cattle, sheep, swine, goats, horses, mules, or other equines that has all bone removed and is cut into pieces or trimmings, frozen into a compact block of any shape and suitable for slicing or chopping in the manufacturing of meat food products. Individual pieces or trimmings must not be smaller than a 2-inch cube or a piece comparable in size. As used in this section, the term "frozen" includes "chilled fresh," and "lot" means any amount of frozen boneless manufacturing meat of one species, similarly packaged, shipped from one establishment, and offered for import inspection under one or more foreign inspection certificates.

(2) All lots of imported frozen boneless manufacturing meat will be sampled and such samples defrosted for inspection in accordance with this paragraph. The inspector will select from each lot the appropriate number of cartons specified by the table of sampling plans contained in the current U.S. Department of Agriculture Manual of Meat Inspection Procedures.[1] The total sample for inspection will consist of the necessary number of 12-pound units drawn from these cartons. The 12-pound units selected will be completely defrosted and subjected to a thorough examination.

(b) *Lots refused entry.* Reinspection (including resampling) will be provided for any lot of frozen boneless manufacturing meat which was refused entry under this section on the basis of the original evaluation of the sample thereof, only if there is reason to question the judgment of the inspector in making the evaluation. If, in other cases, any portion of any lot refused entry is identified by markings as consisting of any particular type of meat (e.g., as made from beef trimmings or from chucks or rounds) which differs from all other types of meat in the lot or is identified by a production date or shift mark which distinguishes it from all other meat in the lot, the eligibility of each such portion of the lot for importation will be evaluated upon the basis of the original inspection findings and in accordance with standards specified for this purpose in instructions issued to the inspectors.[2] Portions of the lot so found eligible for entry will be admitted and the remainder of the lot will be refused entry.

(c) *Certain lots found to qualify as lots for entry.* If it is found upon initial evaluation of the sample of any lot of frozen boneless manufacturing meat that the lot as a whole meets the inspection standard for entry but such lot includes any portion identified by markings as consisting of any particular type of meat different than all other types of meat in the lot or identified by a different production date or shift mark than the remainder of the lot, the eligibilty for importation of such portion of the lot shall be evaluated, upon the basis of the original inspection findings and in accordance with standards specified for this purpose in instructions issued to the inspectors.[2] Any portion of the lot found ineligible for entry upon such evaluation will be refused entry and the remainder of the lot will be admitted.

(d) *Lots for which unloading is delayed.* If a portion of a lot is unloaded from a ship on any day and the unloading of the remainder of the lot is being delayed beyond the following day, the eligibility for importation of each portion which is identified by markings as consisting of any particular type of meat different than all other types of meat in the lot or identified by a different production date or shift mark than the remainder of the lot, may be evaluated at the importer's request separately in accordance with standards specified for this purpose in instructions issued to the inspectors.[2]

Sec. 327.22 Official import meat inspection marks and seals.—The official import meat inspection mark and official import meat seal are those described in sections 312.5(b) and 312.7 of this subchapter.

INSPECTION AND HANDLING OF HORSE MEAT AND PRODUCTS THEREOF

Regulations of the Meat Inspection Division of the United States Department of Agriculture, relating to the inspection and handling of horse meat and products thereof, Code of Federal Regulations, title 9, sections 29.10–29.13.

Sec. 29.10 Eligibility of foreign countries for importation of horse meat and horse meat food products into the United States.—(a) Whenever it shall be determined that the system of horse meat inspection maintained by any foreign country is the substantial equivalent of, or is as efficient as, the system established and maintained by the United States, and that reliance can be placed upon certificates required under this part from authorities of such foreign country, notice of that fact will be given by including the name of such foreign country in paragraph (b) of this section, and thereafter horse meat and horse meat food products as to which the foreign inspection and certification is determined to be sufficient shall be eligible for importation into the United States from such foreign country, as provided in paragraph (b) of this section. Horse meat and horse meat food products from foreign countries not listed in paragraph (b) of this section are not eligible for importation into the United States. The listing of any foreign country under this section may be withdrawn whenever it shall be determined (1) that the system of horse meat inspection maintained by such foreign country is not the substantial equivalent of, or is not as efficient as, the system established and maintained by the United States, or that reliance cannot be placed upon certificates required under this part from authorities of such foreign country; or (2) that, for lack of current information concerning the system of horse meat inspection being maintained by such foreign country or for any other reason, such foreign country should reestablish its eligibility for listing.

(b) It has been determined that horse meat and horse meat food products from the following foreign countries covered by foreign horse meat inspection certificates of the country of origin as required by section 29.11 are eligible for importation into the United States after inspection and marking as required by the applicable provisions of Parts 1 through 29 of this subchapter and upon compliance with any requirements of the Animal Inspection and Quarantine Division of the Agricultural Research Service:

Argentina
Canada
Mexico
New Zealand
Paraguay

Sec. 29.11 Imported horse meat and horse meat food products; foreign certificates required.—Except as provided in section 27.6(e) of this subchapter, each consignment containing any horse meat or horse meat food products capable of being used as food for man, consigned to the United States from a foreign country shall be accompanied with a foreign horse meat inspection certificate in the following form:

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[1] Copies of such table are available, upon request, from the Technical Services, Meat and Poultry Inspection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[2] The instructions may be obtained, upon request, from the Technical Services, Meat and Poultry Inspection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOREIGN OFFICIAL HORSE MEAT INSPECTION CERTIFICATE

Place .... Date ....
(City) (Country)

I hereby certify that the horse meat and horse meat food products herein described were derived from horses which received antemortem and post-mortem veterinary inspections at the time of slaughter, and that such horse meat and horse meat food products are sound, healthful, wholesome, and otherwise fit for human food, and have not been treated with, and do not contain any preservative, coloring matter, or other substance not permitted by the regulations governing the horse meat inspection of the United States Department of Agriculture, filed with me, and that said horse meat and horse meat food products have been handled only in a sanitary manner in this country.

Kind of product	Number of pieces or packages	Weight

Identification marks on horse meat and packages ______________________
Consignor ______________________
Address ______________________
Consignee ______________________
Destination ______________________
Shipping marks ______________________

(Signature) ______________________
(Name of official of national foreign government authorized to issue inspection certificates for horse meat and horse meat food products exported to the United States.)

(Official title) ______________________

Sec. 29.12 Applicability of meat inspection regulations to importation of horse meat and horse meat food products.—In addition to other sections of this part which apply to the importation of horse meat and horse meat food products, capable of being used as food for man, section 29.4, all of the provisions of Part 27 of this subchapter (except sections 27.1; 27.2; 27.6(a), (f), (g), and (h); 27.18; and 27.20(a) and (c), and all of the provisions of other parts of this subchapter as specified in said Part 27 which are applicable to horse meat and horse meat food products under section 29.9, are hereby made applicable to the importation of such horse meat and horse meat food products.

Sec. 29.13 Imported horse meat and horse meat food products to be handled and transported as domestic.—All imported horse meat and horse meat food products, capable of being used as food for man, after admission into the United States in compliance with this part shall be deemed and treated and shall be handled and transported as domestic horse meat and horse meat food products, and shall be subject to the provisions of Parts 1 through 29 of this subchapter which are applicable to domestic horse meat and horse meat food products, and to the provisions, prohibitions, and penalties of the Horse Meat Act and the Meat Inspection Act as made applicable to horse meat and horse meat food products. Imported horse meat and horse meat food products which have been inspected, passed, and marked under this part may be transported from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, or to any place under the jurisdiction of the United States, or to a foreign country, only upon compliance with all of the provisions of Part 25 of this subchapter, except sections 25.10 and 25.11, as if said provisions referred to horses, horse meat and horse meat food products.

XIV FEDERAL SEED ACT

The following joint regulations have been prescribed by the Secretary of the Treasury and the Secretary of Agriculture for the enforcement of the Federal Seed Act, Code of Federal Regulations, title 7, sections 201.201-201.231.

Definitions

Sec. 201.201 Agricultural seeds.—The term 'agricultural seeds' means those seeds so defined in the regulations of the Secretary of Agriculture.

Sec. 201.202 Vegetable seeds.—The term 'vegetable seeds' means those seeds so defined in the regulations of the Secretary of Agriculture.

Sec. 201.203 Screenings.—The term 'screenings' means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contains less than 25 percent of live agricultural or vegetable seeds.

Sec. 201.204 Agricultural Marketing Service.—The term "Agricultural Marketing Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

Sec. 201.205 Collector of customs.—The term 'collector of customs' includes any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

Sec. 201.206 Pure live seed.—The term 'pure live seed' means the product of the percentage of germination plus the hard seed and the percentage of pure seed, divided by 100.

Sec. 201.207 Other definitions.—The definitions for the purposes of Title III of the Federal Seed Act shall include all other definitions in the Regulations of the Secretary of Agriculture under the Act.

Samplings

Sec. 201.208 Seed.—(a) Except as provided in paragraph (b) of this section, the collector of customs shall draw and forward samples of all seed imported or offered for importation into the United States except the following kinds which he shall sample only when imported for seeding purposes and when declared for seeding purposes:

Barley.
Bean, adzuki.
Bean, field.
Bean, lima.
Bean, mung.
Broadbean.
Buckwheat, common.
Canary grass.
Castorbean.
Celery.
Chickpea.
Corn, field.
Cowpea.
Flax.
Guar.
Hemp.
Lentil.
Lettuce.
Lupine.
Millet, foxtail.
Millet, proso.
Mustard, India.
Oat.
Parsley.
Pea.
Pea, field.
Peanut.
Pepper.
Pumpkin.
Rape, annual.
Rape, bird.
Rape, turnip.
Rape, winter.
Rice.
Rye.
Safflower.
Sesame.
Sorghum.
Soybean.
Sunflower.
Vetch.
Watermelon.
Wheat.

(b) It is not ordinarily practical to sample and test small lots in importations of seed. The size of lots not ordinarily sampled is shown in table 3 in sec. 201.221a. No release by the United States Department of Agriculture will be necessary for seed not sampled.

Sec. 201.209 Screenings.—The collector of customs shall upon request received prior to importation from the Deputy Administrator for Marketing Services, Agricultural Marketing Service, draw and forward samples of all screenings imported or offered for importation into the United States.

Sec. 201.210 Method of sampling.—(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than handful is taken from a bag, the handfuls shall be taken from well-separated points.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as grass seed, uncleaned seed or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand shall be inserted in an open position and the fingers shall be held closely together while the hand is being inserted and the portion withdrawn.

(d) The portions shall be combined into a composite sample except that if the quantity represented to be a lot does not appear to be of uniform quality as required in paragraph (e) of this section, the separate portions shall be forwarded together but without being combined into a composite sample.

(e) A quantity of seed designated as one lot shall be regarded as such for sampling only if every portion or bag of seed in the quantity is uniform within permitted tolerances as to percentage of pure seed, percentage of germination and hard seed, percentage of weed seed, and rate of occurrence of noxious weed seeds.

(f) When an importation consists of more than one lot, each lot shall be sampled separately.

(g) Sampling shall not proceed unless (1) each container is stencilled or otherwise labeled to show the lot designation and the name of the kind, or kind and variety, appearing on the invoice and other entry papers and (2) a "Declaration of Labeling" has been filed by the importer of record as required under sec. 201.228a.

Sec. 201.211 Bulk.—Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require. At least as many trierfuls or handfuls as the minimum required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings shall be taken.

Sec. 201.212 Bags.—(a) For lots of six bags or less, each bag shall be sampled. A total of at least five trierfuls shall be taken.

(b) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size, it is not necessary that more than 30 bags be sampled.

(c) When sampling seed in small containers which it is not practical to sample as required in paragraph (a) or (b) of this section, entire unopened containers may be taken in sufficient number to supply a minimum size sample as required in sec. 201.213. The sample may consist of the contents of one container, or two or more containers when combined.

Sec. 201.213 Size of sample.—Samples of agricultural seed shall be not less than one quart. Samples of screenings shall be not less than two quarts. Samples of vegetable seed shall not be less than one pint, except that samples of one-fourth pint will be sufficient from importations of five pounds or less. Unused portions of samples of rare or expensive seeds with be returned by the Agricultural Marketing Service upon request of the importer.

Sec. 201.214 Sealing and identifying samples.—Before being forwarded for analysis, test, or examination, the container of each sample shall be properly sealed, and identified in accordance with sec. 201.215.

Sec. 201.215 Statements to accompany samples.—All samples shall be accompanied by (1) a description of the lot of seed offered for importation, on a form provided for this purpose by the Department of Agriculture and (2) the declaration of labeling required in sec. 201.228a.

Sec. 201.216 Forwarding samples.—Samples from the various ports shall be forwarded to seed laboratories in accordance with instructions of the Agricultural Marketing Service to be furnished to customs officers from time to time. [As amended Aug. 1, 1941, 6 F.R. 3961; T.D. 50458.]

Sec. 201.217 Notice to consignee.—The collector of customs shall immediately notify the owner or consignee that samples of seed or screenings have been drawn and that the shipment shall be held intact pending a decision of the Agricultural Marketing Service in the matter.

Sec. 201.218 Delivery under bond.—After samples of seed or screenings offered for importation into the United States from any foreign country have been drawn, such seed or screenings shall be admitted into the commerce of the United States only after the seed or screenings have been found to meet the requirements of the Act and these regulations, except for those lots not tested for pure live seed due to application of statistical inspection techniques as provided in section 302(a) of the Act, *provided* however, that if each container of such seed or screenings is stenciled or labeled to show the name of the kind, or the kind and variety, and a lot number or other designation identifying the lot of seed, collectors of customs may release from customs custody for delivery to the owner or consignee shipments which have been sampled, pending examination and decision in the matter, upon the execution on the appropriate form of either a customs single-entry bond or a customs term bond in such amount as is prescribed for such bond in customs regulations in force on date of entry, which bond shall contain a condition for the redelivery of the seed or screenings or any part thereof upon demand of the collector of customs at any time. Prior to being so admitted, the seed or screenings shall be kept intact and not tampered with in any way, or removed from the containers except under supervision as provided by regulation. The bond shall be filed with the collector of customs, who, in case of default, shall take appropriate action to effect the collection of liquidated damages equal to the value of the entire shipment as set forth in the entry plus the estimated duty thereon, if any. [As amended Aug. 1, 1941, 6 F.R. 3961, T.D. 50458.]

Sec. 201.219 Notice of removal.—The owner or consignee shall keep the Agricultural Marketing Service informed as to the location of seed or screenings subject to the Act, after sampling by the collector of customs but before being finally admitted into the commerce of the United States.

Evidence as to Country or Region Where Seed was Grown

Sec. 201.220 Certificate or declaration of origin.—(a) A certificate, attached to the invoice, of the properly authorized official of the foreign country in which the seed was grown, to the effect that the seed of alfalfa or red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown in that country, will be regarded as prima facie evidence of such fact. This certificate shall be in the following form:

Certificate of origin by foreign official

City ______________________, country ______________________,
date ______________________

I, ______________________ hereby certify that
(Name of Official)
the seed contained in ______________________ bags,
marked ______________________, described
in invoice ______________________,
(Number or date)
to which this certificate is attached, was grown
in ______________________
(Name of country or countries or part thereof)

____
(Name of official)

____
(Official title)

(b) A declaration of the shipper attached to the invoice stating the country in which the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown will be regarded as prima facie evidence of such fact. The declaration shall be in the following form:

Declaration of origin by shipper

City ______________________, country ______________________,
date ______________________

I, the undersigned ______________________,
the shipper of the seed contained in ______________________ bags,
marked ______________________,
described in invoice ______________________
(Number or date)
to which this declaration is attached, do hereby certify that such seed was grown
in ______________________
(Name of country or countries or part thereof)

____
(Signature)

(c) If the information contained in the certificate or declaration provided for in paragraphs (a) and (b) of this regulation is not sufficient to establish the country or region of origin of the seed, or if the consular invoice is not accompanied by such certificate or declaration, other evidence as to the origin may be considered, or the seed may be permitted entry after being stained 10 percent red.

Exemptions, Declarations and Labeling

Sec. 201.221 Exemptions.—(a) *Shipments through the United States.* Seed shipped in bond through the United States is not subject to the import requirements of the act.

(b) *United States seed returned.* Seed which has been grown in the United States, exported, and returned from a foreign country, is not subject to the prohibition against the importations of seed that is adulterated or unfit for seeding purposes: *Provided,* That proof in the form of statements or other documents, furnished by the United States importer to the Seed Branch, Agricultural Marketing Service, United States Department of Agriculture, establishes that (1) the seed was grown in the United States and was exported, (2) the seed was not admitted into the commerce of a foreign country, and (3) the seed was not commingled with other seed after being exported. The information required ins subparagraph (1) of this paragraph shall include the quantity of seed and number of containers, the date of exportation from the United States, the distinguishing marks on the containers at the time of exportation, and the name and address of the United States exporter. The information required in subparagraphs (2) and (3) of this paragraph shall be contained in a statement or document issued by a customs or other Government official of the foreign country.

(c) *Seed for experimental or breeding purposes.* Any lot of seed imported for sowing for experimental or breeding purposes and not for sale is not subject to the prohibition against the importation of seed that is adulterated or unfit for seeding purposes: *Provided,* That (1) a declaration is filed by the importer with the Seed Branch, Agricultural Marketing Service, United States Department of Agriculture, as specified in this paragraph, and (2) the quantity of seed in the lot will not exceed that shown in table 3 in sec. 201.221a for such seed. Seed imported for increase purposes only will not be considered to be imported for experimental or breeding purposes. The declaration required to be filed shall be substantially as shown in paragraph (d) of this section.

(d) *Seed for seed production only.* Any lot of seed imported for sowing for seed production only, by or for the importer or consignee, and not to be sold within the United States is not subject to the prohibition against the importation of seed that is (1) adulterated or unfit for seeding purposes because of low pure live seed, or (2) required to be stained: *Provided,* That a declaration is filed by the importer with the Seed Branch, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, substantially as specified below:

DECLARATION

SEED FOR EXPERIMENTAL OR BREEDING PURPOSES OR SEED FOR SEED PRODUCTION ONLY

The undersigned declares: That he is a resident of ______________________________
(Street, city, and State)
that he is (owner of) (employed by) the firm of ____________ (as a ______________); that he (is) (represents) the (owner) (consignee) of the ________ pounds of ______________ seed
(Kind of seed)
offered for importation at ________________ under
(Port of entry)
entry No. ________ and contained in ________ bags or containers marked ________ as described in invoice No. ______ dated ______; that said seed is being imported for (making selections, crosses, or tests, or for other experimental or breeding purposes) or (see production only) and will not be sold.

Signed ________________

Date: ________________

Sec. 201.221a Table 5

	Weight of seed lot not ordinarily sampled, less than—	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—
Vegetable seeds:	*Pounds*	*Pounds*
Artichoke	25	50
Asparagus	25	50
Asparagusbean	25	50
Bean	25	200
Bean, garden	100	500
Bean, lima	25	200
Bean, runner	25	200
Beet	25	50
Broadbean	25	200
Broccoli	5	10
Brussels sprouts	5	10
Burdock, great	10	50
Cabbage	5	10
Cabbage, tronchuda	5	10
Cantaloupe (see Muskmelon)		
Cardoon	25	50
Carrot	5	10
Cauliflower	5	10
Celeriac	5	10
Celery	5	10
Chard, Swiss	25	50
Chicory	5	10
Chinese cabbage	5	10
Chives	5	10
Citron	25	50
Collards	5	10
Corn, sweet	25	200
Cornsalad	5	10
Cowpea	25	200
Cress, garden	5	10
Cress, water	5	10
Cucumber	25	50
Dandelion	5	10
Eggplant	5	10
Endive	5	10
Kale	5	10

Table 5 cont'd.

	Weight of seed lot not ordinarily sampled, less than—	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—
Vegetable seeds:	*Pounds*	*Pounds*
Kale, Chinese	5	10
Kohlrabi	5	10
Leek	5	10
Lettuce	5	10
Muskmelon	25	50
Mustard, India	25	100
Mustard, spinach	5	10
Okra	25	50
Onion	5	10
Onion, Welsh	5	10
Pak-choi	5	10
Parsley	5	10
Parsnip	5	10
Pea	25	200
Pepper	5	10
Pumpkin	25	50
Radish	25	50
Rhubarb	5	10
Rutabaga	5	10
Salsify	25	50
Sorrel	5	10
Soybean	25	200
Spinach	25	50
Spinach, New Zealand	25	50
Squash	25	50
Tomato	5	10
Tomato, husk	5	10
Turnip	5	10
Watermelon	25	50
Agricultural seeds:		
Alfalfa	25	100
Alfilaria	25	100
Alyceclover	25	100
Bahiagrass	25	100
Barley	100	500
Barrelclover	25	100
Bean, adzuki	100	500
Bean, field	100	500
Bean, mung	100	500
Bean (see Velvetbean).		
Beet, field	100	500
Beet, sugar	100	1,000
Beggarweed	25	100
Bentgrass, colonial	25	100
Bentgrass, creeping	25	100
Bentgrass, velvet	25	100
Bermuda-grass	25	100
Bluegrass, annual	25	100
Bluegrass, bulbous	25	100
Bluegrass, Canada	25	100
Bluegrass, glaucantha	25	100
Bluegrass, Kentucky	25	100
Bluegrass, Nevada	25	100
Bluegrass, rough	25	100
Bluegrass, Texas	25	100
Bluegrass, wood	25	100
Bluestem, big	25	100
Bluestem, little	25	100
Bluestem, sand	25	100

Table 5 cont'd.

	Weight of seed lot not ordinarily sampled, less than—	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—
Agricultural seeds—Cont.	*Pounds*	*Pounds*
Bluestem, yellow	25	100
Brome, field	25	100
Brome, mountain	25	100
Brome, smooth	25	100
Broomcorn	100	500
Buckwheat	100	500
Buffalograss	25	100
Buffelgrass	25	100
Bur-clover, California	25	100
Bur-clover, spotted	25	100
Burnet, little	25	100
Buttonclover	25	100
Canarygrass	25	100
Canarygrass, reed	25	100
Carpetgrass	25	100
Castorbean	100	500
Chess, soft	25	100
Chickpea	100	500
Clover, alsike	25	100
Clover, berseem	25	100
Clover, cluster	25	100
Clover, crimson	25	100
Clover, Kenya	25	100
Clover, large hop	25	100
Clover, small hop (suckling)	25	100
Clover, ladino	25	100
Clover, lappa	25	100
Clover, Persian	25	100
Clover, red or	25	100
Red clover, mammoth	25	100
Red clover, medium	25	100
Clover, rose	25	100
Clover, strawberry	25	100
Clover, sub (subterranean)	25	100
Clover white (also see clover, ladino)	25	100
Clover, (also see Alyce-clover, Bur-clover, Buttonclover, Sourclover, Sweetclover).		
Corn, field	100	1,000
Corn, pop	100	1,000
Cotton	100	500
Cowpea	100	500
Crested dogtail	25	100
Crotalaria, lance	25	100
Crotalaria, showy	25	100
Crotalaria, slenderleaf	25	100
Crotalaria, striped	25	100
Crotalaria, Sunn	25	100
Crownvetch	25	100
Dallisgrass	25	100
Dichondra	25	100
Dropseed sand	25	100
Emmer	100	500
Fescue, Chewings	25	100
Fescue, hair	25	100
Fescue, hard	25	100

Table 5 cont'd.

	Weight of seed lot not ordinarily sampled, less than—	Weight of seed lot permitted entry for experimental or breeding purposes, not more than—
Agricultural seeds—Cont.	*Pounds*	*Pounds*
Fescue, meadow	25	100
Fescue, red	25	100
Fescue, sheep	25	100
Fescue, tall	25	100
Flax	25	100
Grama, blue	25	100
Grama, side-oats	25	100
Guar	25	100
Guineagrass	25	100
Hardinggrass	25	100
Hemp	100	500
Indiangrass, yellow	25	100
Indigo, hairy	25	100
Japanese lawngrass	25	100
Johnsongrass	25	100
Kudzu	25	100
Lentil	25	100
Lespedeza, Korean	25	100
Lespedeza, sericea or Chinese	25	100
Lespedeza, Siberian	25	100
Lespedeza, striate	25	100
Lovegrass, sand	25	100
Lupine, blue	100	500
Lupine, white	100	500
Lupine, yellow	100	500
Manilagrass	25	100
Meadow foxtail	25	100
Medick, black	25	100
Millet, browntop	25	100
Millet, foxtail	25	100
Millet, Japanese	25	100
Millet, pearl	25	100
Millet, proso	25	100
Molassesgrass	25	100
Mustard, India	25	100
Mustard, black	25	100
Mustard, white	25	100
Napiergrass	25	100
Oat	100	500
Oatgrass, tail	25	100
Orchardgrass	25	100
Panicgrass, blue	25	100
Panicgrass, green	25	100
Peanut	100	500
Pea, field	100	500
Poa trivialis (see bluegrass, rough).		
Rape, annual	25	100
Rape, bird	25	100
Rape, turnip	25	100
Rape, winter	25	100
Redtop	25	100
Rescuegrass	25	100
Rhodesgrass	25	100
Rice	100	500
Ricegrass, Indian	25	100
Roughpea	100	500
Rye	100	500
Ryegrass, Italian	25	100
Ryegrass, perennial	25	100
Ryegrass, Wimmera	25	100
Safflower	100	500
Sainfoin	100	500
Sesame	25	100
Sesbania	25	100
Smilo	25	100
Sorghum	100	1,000
Sorghum alum	25	100
Sorgrass	25	100
Sourclover	25	100
Soybean	100	500
Spelt	100	500
Sudangrass	25	100
Sunflower	100	500
Sweetclover, white	25	100
Sweetclover, yellow	25	100
Sweet vernalgrass	25	100
Switchgrass	25	100
Timothy	25	100
Tobacco	1	1
Trefoil, big	25	100
Trefoil, birdsfoot	25	100
Vaseygrass	25	100
Veldtgrass	25	100
Velvetbean	100	500
Velvetgrass	25	100
Vetch, common	100	500
Vetch, hairy	100	500
Vetch, Hungarian	100	500
Vetch, Monantha	100	500
Vetch, narrowleaf	100	500
Vetch, purple	100	500
Vetch, woolypod	100	500
Wheat, common	100	500
Wheat, club	100	500
Wheat, durum	100	500
Wheat, Polish	100	500
Wheat, poulard	100	500
Wheatgrass, beardless	25	100
Wheatbrass, fairway crested	25	100
Wheatgrass, standard crested	25	100
Wheatgrass, intermediate	25	100
Wheatgrass, pubescent	25	100
Wheatgrass, Siberian	25	100
Wheatgrass, slender	25	100
Wheatgrass, tall	25	100
Wheatgrass, western	25	100
Wild-rye, Canada	25	100
Wild-rye, Russian	25	100
Zoysia Japonica (see Japanese lawngrass).		
Zoysia matrella (see Manilagrass.)		

Sec. 201.222 Declaration of purpose; labeling as to kind, variety, hybrid, and treatment.—(a) Entries covering all importations of seed of

Barley
Bean, Adzuki
Bean, field
Bean, lima
Bean, Mung
Broadbean
Buckwheat, common
Canarygrass
Castorbean
Celery
Chickpea
Corn, field
Cowpea
Flax
Guar
Hemp
Lentil
Lettuce
Lupine
Millet, foxtail, (German, Hungarian, and Golden)
Millet, proso
Mustard, black
Mustard, India
Mustard, white
Oats
Parsley
Pea
Pea, field
Peanut
Pepper
Pumpkin
Rape, annual
Rape, bird
Rape, turnip
Rape, winter
Rice
Rye
Safflower
Sesame
Sorghum
Soybeans
Sunflower
Vetch
Watermelon
Wheat

shall contain a statement by the importer setting forth the use for which imported. When imported for seeding purposes such seed is subject to the import provisions of the Act.

(b) Deleted.

(c) If any seed enumerated in section 201.222 is declared for seeding purposes and is found upon examination by the Agricultural Marketing Service not to meet the requirements of the Federal Seed Act, the importer shall be permitted to withdraw his declaration made under section 201.222 upon notification from the Agricultural Marketing Service that the seed may be released for feeding or manufacturing purposes. In this event, the importer shall be required to file a new declaration that no part of the importation will be used for seeding purposes.

(d) The collector of customs shall notify the Department of Agriculture of any change in the nature of a declaration made under this section. [As amended Aug. 1, 1941, 6 F.R. 3961, T.D. 50458, Aug. 4, 1945, 10 F.R. 9949, Oct. 26, 1945, 10 F.R. 13489, T.D. 51363.]

(e) The invoice and any other labeling pertaining to agricultural or vegetable seed offered for importation shall bear the lot identification, the name of each kind and variety of vegetable seed present, or kind and variety of agricultural seed present, in excess of 5 percent of the whole, and the designation "hybrid" when it is hybrid seed as defined under Sec. 201.2(y).

(f) Any agricultural seed or mixture thereof or any vegetable seed or mixture thereof offered for importation for seeding purposes that has been treated shall be labeled as provided in Sec. 201.31(a) of the regulations of the Secretary of Agriculture.

Screenings

Sec. 201.223 Screenings consisting prohibited entry.—Screenings of all seed subject to the Federal Seed Act are prohibited entry into the United States except as provided under Section 201.224.

Sec. 201.224 Screenings permitted entry.—Screenings consisted of wheat, oats, rye, barley, buckwheat, field corn, sorghum including broom corn, flaz, millet, Proso, soybeans, cowpeas, field peas, and field beans may be imported, provided such screenings are not imported for seeding purposes and are so declared by the words 'screenings for processing, not for seeding', in the invoice or other paper required to be presented to the collector of customs.

Seed Adulterated or Unfit for Seeding Purposes

Sec. 201.225 Cleaning or processing.—Seed which is found under the provisions of the Act to be adulterated or unfit for seeding purposes may be cleaned or processed under the supervision of an employee or authorized agent of the U.S. Department of Agriculture. The cleaning or processing shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. The identity of the seed shall be maintained at all times to the satisfaction of the persons supervising the cleaning or processing. The refuse from such cleaning shall be placed in containers and securely sealed and identified. If upon analysis, test or examination of a representative sample of the cleaned seed, it is found that the requirements of the Act have been met, that portion of the seed may be admitted.

Sec. 201.226 Destruction of refuse.—The refuse from such cleaning shall be destroyed under the supervision of an employee authorized agent of the U. S. Department of Agriculture. The destruction of refuse shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs.

Sec. 201.227 Report to collector of customs.—A report of the cleaning and processing and the destruction of the refuse, stating the amount of weight in each instance, shall be submitted to the collector of customs at the port of entry of such seed by the Agricultural Marketing Service.

Misbranded Seed

Sec. 201.228 Correction of labeling.—Seed being imported or offered for importation, the labeling of which is false or misleading in any respect, shall be refused admission into the commerce of the United States until such labeling has been corrected to meet the requirements of the Act and the Rules and Regulations. Any correction of the labeling upon the containers shall be done under the supervision of the U.S. Department of Agriculture at the expense of the owner or consignee, who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers or employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. When a representative of the Department of Agriculture finds upon examination of seed that it is incorrectly described on the invoice presented at the time of entry, a finding of 'false labeling' under the Federal Seed Act of August 9, 1939, will be made. The seed will be refused admission until after the importer has given satisfactory assurance to the Department of Agriculture that he has taken appropriate steps to file with the district director of Customs at the port of entry a corrected Customs invoice describing the seed in terms which will not constitute 'false labeling.' Upon receipt of such assurance, the Department of Agriculture will notify the district director of the nature of the 'false labeling' and that the seed may be granted admission under the Federal Seed Act. The importer will be liable for the payment of liquidated damages under the bond filed in connection with the entry unless a corrected Customs invoice is produced within the time provided for by law or regulations.

Sec. 201.228a Declaration of labeling.—For each importation of seed the importer shall submit with the entry papers and identify by the heading "Declaration of Labeling" a copy of the commercial invoice, accurately showing thereon any information on or attached to the containers of the seed regarding the kind or kind and variety; distinguishing marks; origin; percentages of pure seed, weed seed; inert matter, other crop seed, pure live seed, germination, and hard seeds; the date of test; the name and rate of occurrence of noxious-weed seeds; and the name of any substance or process used in treating the seed.

Mixing Seed

Sec. 201.229 Prohibition against and exception.—Mixing any seed or screenings with a lot or shipment of seed or screenings offered for entry which has been found to be in violation of the Act or these regulations is prohibited, except that in cases where it shall appear to the satisfaction of the Deputy Administrator of the Marketing Service, that two or more such lots or shipments of seed or screenings offered for entry are of substantially the same quality and origin, they may be mixed for the purpose of recleaning upon a written permit from the Deputy Administrator of the Marketing Service.

Rejected Seed or Screenings

Sec. 201.230 Exportation or destruction.—(a) Seed or screenings refused admission into the commerce of the United States shall be exported under Customs supervision by the owner or consignee within 12 months of the date of notice of such refusal or at the expiration of such 12-month period the rejected seed or screenings shall be destroyed under the supervision of an employee or authorized agent of the United States Department of Agriculture in such manner as may be determined by the United States Department of Agriculture.

(b) When seed or screenings which have been refused admission into the commerce of the United States are exported the district director of Customs shall notify the office of the United States Department of Agriculture that issued the notice of rejection and shall also submit to said office a sample drawn from the seed at the time of exportation.

(c) The destruction of seed or screenings refused admission shall be at the expense of the owner or consignee who shall reimburse the Government for all expenses incurred in connection with such supervision, including travel, per diem or subsistence, and salaries of officers and employees of the United States. Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs. The United States Department of Agriculture shall make a report of such destruction giving the amount by weight to the district director of Customs at the port of entry of such seed or screenings.

Procedure as to Public Hearings

Sec. 201.231 Notice and hearing prior to promulgation of rules and regulations.—Prior to the promulgation of any rule or regulation contemplated by Section 402(b) of the Act, notice shall be given by publication in the Federal Register of intention to promulgate such rule or regulation and of the time and place of a public hearing to be held with reference thereto. Such hearing shall be conducted by the Secretary of the Treasury and the Secretary of Agriculture, acting jointly or severally, or by such employee or employees of the Department of Agriculture or of the Department of the Treasury, as the case may be, as may be designated to preside thereat. The presiding officer shall conduct the hearing in an orderly and informal manner, according to such procedure as he may announce at the commencement of the hearing. Any rule or regulation promulgated under Section 402(b) of the Act shall become effective on the date fixed in the promulgation, which date shall be not less than 30 days after publication in the Federal Register. Any rule or regulation may be amended or revoked in the same manner as is provided for its promulgation.

XV. IMPORTATION OF TEAS

Regulations of the Food and Drug Administration, Department of Health, Education, and Welfare (formerly of the Department of Agriculture for the enforcement of the Act of March 2, 1897, as amended (21 U.S.C. 41-50)), relating to the importation of teas, Code of Federal Regulations, title 21, Part 1220.

Subpart A—General Provisions

Sec. 1220.5 Importation of inferior goods prohibited.—The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards fixed and established by the Secretary of Health, Education and Welfare, in accordance with section 3 of the Tea Importation Act (29 Stat. 605; 21 U.S.C. 43), is prohibited.

Sec. 1220.6 Importation without appraisement.—Importations of tea may be entered for consumption, for transit to foreign countries, or for immediate transportation without appraisement. All entries must be on the regular forms, and the regular serial numbers, for both bonds and entries should be used.

Sec. 1220.7 Bonding of tea for consumption.—Tea entered for consumption must be stored as provided in section 1220.15, pending examination, and bond must be taken by the district director of Customs, as provided in section 4 of the Tea Importation Act (29 Stat. 605; 21 U.S.C. 44), on Customs Form No. 7551 or 7553. This bond shall be canceled upon the issuance of a permit for release, as the consumption entry bond includes provisions for the redelivery, the exportation, the destruction, and the holding of the merchandise for Customs examination.

Sec. 1220.8 Tea packages and contents shall constitute a unit.—Tea packages and contents shall be treated as a unit, and no separation of tea from its covering can be allowed, for either exportation or destruction, except under the two following conditions:

(a) In cases of importations of tea containing an excessive quantity of dust and siftings, the tea may be sifted and admitted to entry if found up to the standard, and the dust and siftings may also be admitted if found up to the standard or, if no standard exists, if found up to the respective leaf standard. If not up to the standard, or respective leaf standard when no standard exists, the dust and siftings must be exported or destroyed under Government supervision.

(b) If, by reason of damage, a tea otherwise equal in quality to the standard has been rejected, the damaged portion may be removed and exported or destroyed under Custom's supervision, and the sound remainder resubmitted for examination and admitted to entry if found up to the standard.

Sec. 1220.9 Duties of supervising tea examiner.—(a) The supervising tea examiner is charged with the immediate supervision of all matters relating to the enforcement of the Tea importation Act, and particularly the securing of uniformity in the treatment of imported teas at all the points of examination. He is also to perform such duties in connection with tea under the Federal Food, Drug, and Cosmetic Act as may be assigned to him.

(b) For the purpose of securing uniformity in the treatment of teas each tea examiner will send to the supervising tea examiner one-half pound samples of the teas rejected by him, also such other samples of teas as the supervising tax examiner may direct. To each sample a label (T.I.S. Cat. No. 2) shall be affixed.

(c) The examiner of tea at each port where a qualified tea examiner is stationed shall prepare and forward to the supervising tea examiner and to the chairman of the United States Board of Tea Appeals, as soon as practicable after the close of each month, a report (T.I.S. Cat. No. 3), showing details as to every shipment of tea examined by the tea examiner. This information the tea examiner should compile from his report of "Teas Imported and Examined" (T.I.S. Cat. No. 4) which should always be kept up to date.

Subpart B—Shipment and Storage

Sec. 1220.10 Teas destined for interior ports.—Imported teas entered at an exterior port destined for immediate transportation to an interior port shall be forwarded without detention.

Sec. 1220.15 Warehouse for storage of tea.—(a) Warehouses for the storage of tea will be designated by the district director of Customs and the proprietor thereof will be required to give a bond in the form prescribed (Customs Form No. 3581). Teas not stored in such designated warehouses will be placed in general order store or in public store pending examination and release on proper permit. In the absence of proper storage facilities at customhouses, teas may be retained in locked cars as constructive warehouses, under proper supervision, pending examination.

(b) The importer's premises may be designated as warehouses for the storage of tea on the filing of the bond provided for by the regulation in this part, but whenever, in the discretion of the district director of Customs, it shall be considered desirable, a storekeeper shall be assigned to the supervision of such premises at the importer's expense while the teas shall remain under bond therein.

Sec. 1220.16 Method of storing in warehouse.—(a) When tea under examination is stored in any warehouse it must be so placed as to be separate from other merchandise and so as to allow convenient supervision by Customs officers and officers of the Department of Health, Education, and Welfare. At ports where there are no bonded warehouses, class 2 or 3, the chief Customs officer of the port will, when necessary, procure suitable premises for the temporary storage of any tea reaching his port. The repacking of tea in warehouse for export purposes is not allowed.

(b) All expenses of storage, cartage, and labor must be paid by the importer.

Sec. 1220.17 Removal of tea from warehouse.—No tea shall be delivered to the importer or removed from warehouse for any purpose before the examination required by the Tea Importation Act.

Subpart C—Customs Requirements

Sec. 1220.20 Examination of packages.—Chief officers of Customs may order such an examination of packages containing tea as will satisfy them that no dutiable goods are packed therein. For this purpose the customary designation should be made of packages for examination in public store.

Sec. 1220.21 Tea blended, mixed and repacked for export.—Tea importers desiring to import teas into the United States to be blended, mixed, and repacked for export can do so by bonding a warehouse under the provisions of section 311 of the Tariff Act of 1930 (46 Stat. 691; 19 U.S.C. 1311), upon compliance with sections 19.13 to 19.15, inclusive, of the Customs Regulation of 1943 (19 CFR 19.13-19.15), giving bond on Customs Form No. 3583. All teas placed in bonded manufacturing warehouses must be exported.

> CROSS REFERENCE: For Customs Regulations governing manufacturing warehouses, see 19 CFR 19.13-19.16.

Sec. 1220.22 Unclaimed teas.—Unclaimed teas should be taken possession of by district director of Customs the same as other unclaimed goods and placed in "general order", but not sold at the expiration of the year unless declared fit for consumption by a designated tea examiner.

> CROSS REFERENCE: For U.S. Customs Service regulations governing disposition of merchandise unclaimed or in warehouse beyond the time fixed by law, see 19 CFR Part 20.

Subpart D—Sampling Procedures

Sec. 1220.30 Taking of samples at port where tea examiner is stationed.—the examination of teas at ports where a duly qualified tea examiner is stationed shall be made by means of samples drawn by the sampler from packages designated by the tea examiner. The importer, when his teas are ready for sampling, shall submit in duplicate to the tea examiner a chop list and release permit (T.I.S. Cat. No. 1) of the several lines included in the invoice, and the tea examiner shall select for examination packages representing the different lines.

Sec. 1220.31 Taking of samples at ports where there is no tea examiner.—(a) in case an entry of imported tea shall be made at a port or subport where no tea examiner is stationed the importer should prepare the chop list and release permit (T.I.S. Cat. No. 1) in triplicate and forward them the the chief officer of the Customs at the port of entry.

(b) Samples shall be obtained by such officers, together with the original and one copy of the chop list and release permit (T.I.S. Cat. No. 1), and shall be forwarded to the nearest qualified tea examiner for his report and return. Samples sent for the purpose of examination from ports of importation to ports where tea examiners are located shall be packed in clean tin cans, free from odor, fitted with tight covers, and of a capacity to hold about 4 ounces avoirdupois of tea. Each can shall be properly labeled (T.I.S. Cat. No. 5).

Sec. 1220.32 Result of examination; form of report.—(a) The examination and report upon such samples shall be made in accordance with the provisions of section 7 of the Tea Importation Act (29 Stat. 606; 21 U.S.C. 46), and the result of this examination shall be noted on the invoice by the tea examiner before he returns the invoice to the district director of Customs. The tea examiner at the same time should make his returns on the original copy of the chop list and release permit (T.I.S. Cat. No. 1), which, after being duly signed by him, should be forwarded by him to the importer or consignee.

(b) In case the tea coverings are dutiable and appraised at a value or rate higher than the entered value or rate, the tea examiner shall follow the same procedure as above, except that the chop list and release permit shall be returned to the district director of Customs for such action as he sees fit to take.

(c) In case a partial release is desired the importer shall furnish an additional chop list and release permit (T.I.S. Cat. No. 1) of the goods that he desires, the original chop list and release permit being retained by the tea examiner until action on all the teas in the entry has been taken.

Sec. 1220.33 Chop list.—(a) In all cases the importer shall indicate on the chop list and release permit where the goods are to be sampled, whether on the dock or in warehouse. If the consular invoice has not been received the importer may prepare an additional copy of the chop list and release permit as a pro forma invoice, marking across the face thereof "Pro Forma Invoice."

(b) Importers may print their chop list and release permit forms, provided they conform strictly with the official form (T.I.S. Cat. No. 1). Otherwise, they can be obtained free from the United States tea examiner at ports where tea examiners are stationed, or from the chief officer of Customs at ports, or subports, where no tea examiners are stationed.

Sec. 1220.34 Surplus samples.—(a) Surplus samples drawn from importations for purposes of examination, and which represent pure tea as declared by the examiner, shall be returned to the importer after examination is completed, if so requested by the importer, but if no request is made for the return of samples they shall be disposed of as provided in section 1220.43 for unused standard samples.

(b) Surplus samples representing tea which has been finally rejected should be destroyed, or, after being denatured, should be sold for manufacturing purposes under the Tea Importation Act (35 Stat. 163; 21 U.S.C. 41).

Sec. 1220.37 Exemption of sample packages from examination.—Where tea is put up in packages of not over 2 pounds in weight, imported by mail, express, or otherwise from the country of production, and the fact is established that the packages are samples for distribution, or for use in soliciting orders and not for sale, no examination should be made under the Tea Importation Act (29 Stat. 604; 21 U.S.C. 41-50), and they may be delivered at once to the importer.

Sec. 1220.38 Tea brought in by passengers.—Packages of tea not exceeding 5 pounds in weight brought by passengers may be delivered without examination under the Tea Importation Act (29 Stat. 604; 21 U.S.C. 41-50).

Subpart E—Establishment of Standards

Sec. 1220.40 Tea standards.—(a) Samples for standards of the following teas prepared, identified, and submitted by the Broad of Tea Experts on March 4, 1975, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1975, and ending April 30, 1976:

(1) Formosa Oolong.

(2) Black Tea other then China, Formosa, Japan Type (to be used for all black teas except those from China, Formosa, and Japan).

(3) Black Tea, China, Formosa, Japan Type (to be used for black teas from China, Formosa, and Japan).

(4) Green Tea (to be used for all green teas).

(5) Canton Oolong Type (to be used for all Canton type teas of Formosa or China origin).

(6) Scented Black Tea.

(7) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1975. Tea shipped prior to May 1, 1975 will be governed by the standards that became effective on May 1, 1974.

(b) The Board of Tea Experts shall prepare duplicate samples of the standards for teas.

Sec. 1220.41 Effective date of tea standards.—The standards prepared and submitted to the Secretary of Health, Education and Welfare by the Board of Tea Experts, appointed by him on or before February 15 of each year, shall be fixed and established as standards under the act and shall be in effect from the 1st day of May of each year until April 30, inclusive, of the following year, except that tea shipped from abroad prior to May 1 of any year shall be governed by the standards in effect at the time of shipment. Such standards for each year will be published in the FEDERAL REGISTER.

Sec. 1220.42 To whom standards will be furnished.—(a) A quantity of tea of the approved standards will be repacked in half-pound tin containers by competent tea packers under the constant supervision of an officer of the Food and Drug Administration and full sets will be furnished the Board of Tea Appeals, the supervising tea examiner, and the examiners of tea at all the tea examining stations.

(b) Standards will be furnished to actual importers and regular tea brokers on application to the supervising tea examiner, at the actual cost of the same.

Sec. 1220.43 Disposition of obsolete standards.—After standard samples have served their purpose and new season samples have been submitted, the old samples may be included in quarterly sales of unclaimed goods, and the proceeds paid into the Treasury, after deducting expenses of advertisement and sale, the designation on the packages showing such teas to have been used as Government standards to be obliterated before delivery to purchaser.

Subpart F—Individual Standards

Sec. 1220.50 Macao or Canton congou and brick tea standards.—Macao or Canton congou and brick tea should be compared with the standards for China congou. The mustiness or damaged flavor exhibited in certain Canton teas would be just cause for rejection.

Sec. 1220.51 Teas imitating China green teas.—Whenever Japans, Ceylons, Indias, or any other teas are made up to imitate the green teas of China, they are to be examined in comparison with the China green standards.

Sec. 1220.52 Powchong Formosa oolong teas.—All Powchong (scented) Formosa oolong teas should be examined in comparison with the Formosa standard.

Subpart G—Inspection, Testing, and Grounds for Rejection

Sec. 1220.60 Instructions to examiners.—(a) Examiners are instructed not to pass upon samples representing importations of tea imported separately from the importation; neither shall they give nonofficial opinions concerning samples.

(b) The examination of tea in comparison with the standards under this act shall be made according to the usages and customs of the tea trade, including the testing of an infusion in boiling water and, if necessary, chemical analysis; and examiners are advised, inasmuch as they must not under the law admit any tea inferior to the standards in purity, quality, and fitness for consumption, to emply the present methods of determining the presence of artificial coloring and other impurities. (See section 1220.64).

Sec. 1220.61 Testing of teas.—(a) In comparing with standards, examiners are to test all the teas for quality, for impurity consisting of artificial coloring or facing matter, and other impurity, and for quality of infused leaf. Quality shall be ascertained by drawing, according to the custom of the tea trade, with the weight of a silver half dime to the cup. The quality must be equal to standard, but the flavor may be that of a different district, as long as it is equally fit for consumption. As an illustration, a Teenkai may be equal to a Moyune, but a distinctly smoky or rank Fychow or Wenchow of sour character is not considered equal to the first two mentioned.

(b) Tea dust, fannings, siftings, and offgrades, including broken tea (BT), broken mix (BM), and Bohea when so marked and for which there is no specific standard, should be tested for quality, purity, and fitness for consumption in comparison with their respective leaf standards.

Sec. 1220.62 Testing quality of infused leaf.—In order to test the quality of the infused leaf in comparison with the standard, a second drawing should be made of double weight. Before pouring off the water, examine for an excess of "floaters" (woody stems which remain floating after the leaf is thoroughly infused) to determine whether they are in sufficient quantity to reduce the quality of the infusion below that of the standard. after pouring off the water in the infused leaf should be taken out so as to exhibit the lower side which rested against the cup. Should the mass show a larger quantity of exhausted or decayed leaf then the standard, it affords sufficient evidence to be judged inferior in quality and consequently to be rejected.

Sec. 1220.63 Test for paraffin and similar substances.—If the examiner suspects the presence of paraffin or any similar substance, he should make the following test in comparison with the standard: Spread the tea between two sheets of unglazed white paper. Place thereon a hot iron. The greasy substance, if any, will appear on the paper, and if not equal to the standard the tea would justly be rejected.

Sec. 1220.64 Tests for impurities.—(a) To examine for impurities the following tests may be used in comparison with the standard:

(1) Read test, with additions and modifications, and the cup test, double-weight.—Place 2 ounces of tea in a sieve 5 or 6 inches in diameter, having 60 meshes to the inch and provided with a top. Sift a small quantity of the dust onto a semiglazed white paper about 8 by 10 inches. The amount of dust placed on the paper should be approximately 1 grain. To get the requisite amount of dust it is sometimes necessary to rub the leaf gently against the bottom of the sieve, but this must not be done until the sieve has been well shaken over the test paper. Pour the dust thus collected from the paper into the scales, weight out 1 grain, and return this quantity to the same paper, distributing it well over the surface of the paper. Then place the paper on a plain, firm surface, preferably glass or marble, and crush the dust by pushing over it, with considerable pressure, a flat steel spatula about 5 inches long. Do this repeatedly until the tea dust is ground almost to a powder and the particles of coloring matter or other impurities, if any, are spread or streaked on the paper, so as to become more apparent. Brush off the loose dust and examine the paper by means of a simple lens magnifying 7 1/2 diameters. In distinguishing these particles and streaks bright light is essential.

(2) The crushed leaf in either black or green tea appears in such quantity that there is no chance of mistaking the leaf for artificial coloring, facing material, or other impurities.

(3) The test is performed in comparison with the standard, and, if the tea is clearly equal to the standard with respect to artificial coloring, facing matter, or other impurities, the operation need not be repeated. If particles of artificial coloring, facing, or other impurities are found in the sample under comparison with the standard repeat this operation a sufficient number of times to be sure whether or not the tea contains impurities in excess of the standard.

(4) Repeat the operation, using semiglazed black paper instead of the white paper. This black-paper test shows the presence of facing and other impurities, such as talc, gypsum, barium sulfate, clay, and kaolin.

(5) If the tea under examination is found, by the foregoing tests, to contain more impurities than the standard, draw samples from packages representing at least 5 percent of the line in question, and subject each sample to the tests to ascertain whether or not the majority contain impurities in excess of the standard.

(6) The foregoing tests may be applied to tea of all varieties.

(b) Should the examination of the sample by the cup test, double-weight, for scum, sediment, etc., or the Read test, or both, disclose the presence of more impurities that the standard, a pound sample should be sent to the nearest district of the Food and Drug Administration and an analysis made in comparison with the standard to determine whether it contains more impurities than the standard. If the tea in question is found to contain more impurities then the standard, it would properly be rejected as not being equal to the standard in purity.

(c) All extraneous substances are impurities, and the presence of any may be detected in any way found efficient.

Sec. 1220.65 Tea dust.—Tea dust or broken leaf mixed with other teas or separate, made to imitate gunpowder or other teas, with the use of paste or gum, or any other substance, would justly be rejected.

Sec. 1220.66 Tolerance for fine tea particles.—Except for teas listed under section 1220.61(b), the amount by weight of fine tea particles that will pass through a wire sieve have 30 openings per linear inch in either direction and made of wire with a diameter of 0.01 inch, must not exceed 4 percent. Before condemning any tea for fine particles in excess of 4 percent, examiners shall sieve at least 4 representative samples, each taken from a differnet package in a shipment containing four or more packages, or where a lesser number of packages is involved, examiners shall sieve a representative sample for each package.

Sec. 1220.67 Tea inferior to the standard in any requisite is justly rejected.—Should a tea prove on examination to be inferior to the standard in any one of the requisites—namely, quality, quality of infused leaf, or purity—it would justly be rejected, notwithstanding the fact that it may be superior to the standards in some of the qualifications. No consideration shall be given to the appearance or so-called style of the dry leaf.

Subpart H—Administrative Procedures Based on Examination

Sec. 1220.70 Action based on result of examination.—(a) If, after examination, the tea is found not be prohibited under the act, a release permit shall at once be granted to the importer, declaring that the tea is not within the prohibition of the Tea Importation Act; but, if, on examination, such tea, or merchandise described as tea, is found in the opinion of the examiner, to come within the prohibitions of the law and of the regulations in this part, the importer shall be immediately notified (T.I.S. Cat. No. 6), and the tea, or merchandise described as tea, so returned, shall not be released by the customhouse authorities, unless on a reexamination called for by the importer the return of the examiner shall be found erroneous. Should a portion only of the invoice be passed by the examiner as correct, a permit of delivery shall be granted for that portion and the remainer held as provided in section 6 of the act (29 Stat. 606; 21 U.S.C. 47).

(b) In all cases of rejections by examiners the importer should be notified of the reason for rejection; that is, whether it be on the ground of quality, character of infused leaf, dust, or admixture with foreign substance.

Sec. 1220.71 Procedure for protest against findings.—In case the district director of Customs, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals, designated by the Secretary of Health, Education, and Welfare, and if such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption, as compared with the proper standards, a permit shall be issued by the district director of Customs for its release and delivery to the importer; but if, upon such final re-examination by such board, the tea shall be found to be inferior in purity, quality, and fitness for consumption, as compared with the said standards, the importer or consignee shall give a bond, unless he has previously done so, with security satisfactory to the district director of Customs, to export said tea out of the limits of the United States within a period of 6 months after such final re-examination; and if the same shall not have been exported within the time specified, the district director of Customs, at the expiration of that time, shall cause the same to be destroyed.

Sec. 1220.72 Procedure by importer for review.—(a) If the importer desires teas rejected by the examiner to be reviewed by the United States Board of Tea Appeals, as provided in section 6 of the said act, he shall, within 30 days after he has been notified of such return, file a written application with the district director in the form T.I.S. Cat. No. 20. The district director of Customs will thereupon forward such application to the United States Board of Tea Appeals, designated by the Secretary of Health, Education, and Welfare for review of the matter in dispute, and the proceedings shall be according to section 8 of the act.

(b) The re-examination of the tea samples must be restricted to the samples put up and sealed by the examiner at ports where qualified tea examiners are stationed, or by the chief officer of the Customs, if there is no qualified tea examiner so stationed, in the presence of the importer or consignee, if he so desires. In either case the samples should be transmitted to the United States Board of Tea Appeals by the tea examiner, together with a copy of the finding of the examiner, setting forth the cause of condemnation.

(c) These samples for re-examination should weigh at least 1 pound, and should be put up in tins securely labeled (T.I.S. Cat. No. 21) and well wiped and seasoned. Half of such samples shall be utilized for the examination by the Board of Tea Appeals and for return to the port of entry with the decision, as heretofore, and the remaining half pound, if the tea be rejected by said board, shall be distributed among the various examiners for their information and guidance.

(d) Teas rejected by team examiners and rejections affirmed by the United States Board of Tea Appeals cannot be re-examined.

Sec. 1220.73 Rejected tea.—Rejected tea can only be released or withdrawn for exportation, for transportation and exportation, or for manufacturing purposes under Tea Importation Act (35 Stat. 163; 21 U.S.C. 41), as the case may be.

Sec. 1220.74 Exportation of rejected teas.—(a) Teas to be exported for the reason that they are within the prohibition of the statute will be entered for exportation on Customs Form No. 7515, and bond on Customs Form No. 7557 shall be given for their exportation in a penal sum equal to double the value of the tea, provided consumption entry bond (Form No. 7551 or Form No. 7553) was not previously given.

(b) Whenever a bond is given to export any condemned tea in pursuance of the act, it will be canceled upon the filing of an outward bill of lading and a duly authenticated certificate of clearance from the Customs officer supervising the lading thereof, as in the case of rejected foods and drugs (T.D. 28841), and all accrued charges must be paid before issuance of permit for exportation.

(c) At interior ports the export entry shall be made for transportation and immediate exportation in bond.

Sec. 1220.75 Reimportation of exported teas forbidden.—(a) No imported teas which have been rejected by an examiner, or by the United States Board of Tea Appeals, and exported under the provisions of this act, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

(b) Customs officers will make seizure of any tea so imported.

Sec. 1220.76 Destruction of condemned tea.—Whenever condemned tea is to be destroyed it must be conveyed to some suitable place, and proper means, to be prescribed by the examniner, must be used for its effectual destruction, which shall be effected in the presence of an officer of Customs, detailed by the district director of Customs for the purpose. Before the tea is destroyed a particular description or statement of the same must be prepared containing the name of the importer or owner, the date of importation, the name of the vessel, and the place from which imported, with the character and quantity of the tea and the invoice value. The fact of its destruction must be certified on said statement by the officer detailed as aforesaid, which statement must be filed in the customhouse.

XVI. NARCOTIC DRUGS AND MARIHUANA

STATUTORY PROVISIONS

Internal Revenue Code of 1954, section 4731(a) (26 U.S.C. 473(a)):

Sec. 4731 Definitions.—(a) Narcotic Drugs.—The words "narcotic drugs" as used in this part shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, isonipecaine, coca leaves, and opiate;

(2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;

(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the subtances referred to in clauses (1) and (2); except that the words "narcotic drugs" as used in this part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

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(f) Isonipecaine.—The word "isonipecaine", as used in this part shall mean any substance identified chemically as 1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

(g) Opiate.—(1) In general.—The word "opiate" as used in this part shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (52 Stat. 1041, sec. 201(g); 21 U.S.C. 321)) or other substance found by the Secretary or his delegate and proclaimed by the Secretary or his delegate (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have been so found in the Federal Register, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine or to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability, where, in the judgment of the Secretary or his delegate, the relative technical simplicity and degree of yield of such conversion create a risk of improper use of the drug or other substance.

Food and Drugs, Importation or Exportation, United States Code, title 21, sections 171, 173, 173a, 180 and 182:

Sec. 171 Narcotic drugs; definitions.—When used in sections 173, 174, 176-184, and 185 of this title—(a) The term "narcotic drug" shall have the meaning ascribed to the term "narcotic drugs" by section 4731(a) of Title 26; the term "isonipecaine" shall have the meaning ascribed to that term by section 4731(f) of Title 26; and the term "opiate" shall have the meaning ascribed to that term by section 4731(g) of Title 26.

(b) The term "United States," when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

(d) The term "person" means individual, partnership, corporation, or association.

Sec. 173 Importation of narcotic drugs prohibited; exceptions; crude opium for manufacture of heroin; forfeitures.—It is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Commissioner of Narcotics shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2) if any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 1607 and 1608 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the Commissioner of Narcotics and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

Sec. 173a Same; importation of coca leaves; additional quantity authorized; destruction of cocaine and ecgonine obtained therefrom; duties on imported coca leaves.—In addition to the amount of coca leaves which may be imported under the first paragraph of section 173 of this title, the Commssioner of Narcotics is authorized to permit, in accordance with regulations issued by him, the importation of additional amounts of coca leaves: *Provided*, That after the entry thereof into the United States all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Commissioner of Narcotics. All coca leaves imported under this section shall be subject to the duties which are now or may hereafter be imposed upon such coca leaves when imported.

Sec. 180 Smoking opium not admitted for transportation to another country nor transferred from one vessel to another; other narcotic drugs.—No smoking opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the Commissioner of Narcotics, no other narcotic drug may be so admitted, transferred, or transshipped.

Sec. 182. Exportation of narcotic drugs.—(a) Exportation to countries which have ratified and become parties to Conventions and supplementing protocols; conditions.—No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except—

(1) to a country which has ratified and become a party to the International Opium Convention of 1912 for the Suppression of the abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925, any narcotic drugs derived directly or indirectly from crude opium or coca leaves; or

(2) to a country which has ratified and become a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, and enterd into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, any narcotic drugs not derived directly or indirectly from crude opium or coca leaves; and in the instance of (1) and (2) then only if—

(A) such country has instituted and maintains, in conformity with the respective conventions, a system which the Secretary of the Treasury or his delegate deems adequate, for the control of imports of narcotic drugs;

(B) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import; and

(C) there is furnished to the Secretary or his delegate proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual need for the narcotic drug for medical and scientific uses within such country.

(b) Smoking opium or opium prepared for smoking.—The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

(c) Drugs applied to special scientific purpose in country of destination.—Notwithstanding the provisions of subsection (a) of this section, the Secretary or his delegate may authorize the exportation of any narcotic drug (including crude opium and coca leaves) to a country which has ratified and become a party either to the 1912 convention, the 1925 convention, or the 1931 convention and supplementing protocols of 1946 and 1948, if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

REGULATIONS

Regulation No. 2 of the Bureau of Narcotics relating to the importation, exportation, and transshipment of opium or coca leaves or any compound, manufacture, salt, derivative, or preparation thereof, Code of Federal Regulations, title 21, part 302:

Subpart A—Imports

Sec. 302.1 Importation.—Crude opium and coca leaves may only be imported under formal permit issued by the Commissioner of Narcotics (referred to in this part as the Commissioner) pursuant to a duly executed application therefor, and after a determination by said Commissioner that the quantity of crude opium or coca leaves requested in the application is necessary to provide for, and will be applied to, medical and legitimate uses only. An exception to so much of this rule as requires a formal permit may be made in the case of an emergency which, in the judgment of the Commissioner, so affects the welfare of all or a large proportion of the population as to justify such extraordinary action. No permit shall be granted for the importation of opium to be manufactured into heroin, its salts, derivatives, or preparations. No permit shall be granted for the importation of opium unless such opium has been produced in a country permitted such production by, and which has become a Party to, the 1953 Opium Protocol. No importation by mail shall be permitted.

Sec. 302.2 Who may import.—In exercising the powers and discharging the duties conferred and imposed upon him by the act with respect to the importation of crude opium and coca leaves, the Commissioner shall take such action as in his opinion will effectuate the intent and purpose of the act; and pursuant to this policy, in determining whether any applicant shall be permitted to import such crude opium and coca leaves, the Commissioner shall consider the character and standing of the applicant, his production facilities and trade connections, whether there is reasonable probability that he will apply all crude opium and coca leaves imported and narcotic drugs manufactured by him to medical and legitimate purposes, whether he may serve the public interests by lowering costs or improving quality of narcotic drugs by the use of improved methods, or any other factors which the Commissioner deems appropriate to consider in carrying out the policy mentioned. In the case of new applicants the Commissioner shall also consider whether the allotments to them of shares in the amount of crude opium and coca leaves determined by him to be necessary for medical and legitimate uses would probably have the effect of so reducing or rendering uncertain the supply of crude opium and coca leaves available from year to year to manufacturers already engaged in the manufacture of narcotic drugs as to endanger the efficient administration of the Narcotic Drugs Import and Export Act.

Sec. 302.3 Application for permission to import.—Application for permission to import crude opium or coca leaves shall be made under oath on a form provided by the Treasury Department and forwarded to the Commissioner of Narcotics, Treasury Department, Washington, D.C. 20226. The application shall show, in the spaces provided thereon, the name of the crude material desired to be imported (i.e., crude opium or coca leaves), the number of bales or cases of such crude material, the maximum total pounds of such material, the total tentative allotment to the importer of such crude material for the current calendar year, the total number of pounds of said allotment for which permits have previously been issued, and the total quantity of crude material actually imported during the current year to date. Information under the three subheads last mentioned need only be shown with respect to the particular crude drug for which application for permission to import is being made. The application shall also show the following: The name and address of the consignor, if known at the time application is submitted, but if unknown at that time, the fact should be indicated and the name and address afterwards furnished to the Commissioner as soon as ascertained by the importer; the foreign port of exportation (i.e., the place where the article will begin its journey of exportation to the United States); the port of entry into the United States; the latest date said shipment will leave said foreign port; and the stock on hand of the kind of crude drug desired to be imported under the respective subheads provided. If the application is executed and forwarded before the 15th day of a given month the stock on hand may be shown as of the last day of the penultimate preceding month, but if the application is executed and forwarded on or after the 15th day of a given month the stock on hand must be shown as of the last day of the month immediately preceding.

Sec. 302.4 Alternative foreign ports.—If desired, alternative foreign ports of exportation within the same country may be indicated upon the application, thus, (a) Calcutta, (b) Bombay. If a formal permit is issued pursuant to such application it will bear the names of the two ports in the order given in the application and will authorize shipment from either port. Alternate ports in different countries will not be authorized in the same permit.

Sec. 302.5 Import permit.—The import permit shall be prepared in quintuplicate upon a form which has been approved by the Commissioner, but such permit shall not be valid unless signed by the Commissioner.

Sec. 302.6 Preparation of import permit.—Import permits shall be serially numbered, the five copies of a given permit all to bear the serial number of that permit. Each copy of the permit shall have printed or stamped thereon the disposition to be made thereof. Each permit shall bear a notation to the effect that the Commissioner is satisfied that the consignment proposed to be imported is required for legitimate purposes. Each permit shall also be dated and shall certify that the importer named thereon is thereby permitted under the provisions of the Narcotic Drugs Import and Export Act, as amended, to import, through the port named, one shipment of not to exceed the specified quantity of crude opium or coca leaves, as the case may be, shipment to be made from a stated port before a specified date. All copies of import permits shall bear the signature of the Commissioner, and facsimiles of signatures shall not be used. All permits issued shall be entered in a register kept by the Commissioner for that purpose. No permit shall be altered or changed by any person after being signed by the Commissioner, and any change or alteration upon the face of any permit, after it shall have been signed by the Commissioner, shall render it void and of no effect. Permits are not transferable.

Sec. 302.7 Effect of permit.—A permit duly signed and issued shall be authority to import, by the importer named thereon, one shipment only of not to exceed the maximum quantity of crude opium or coca leaves, as the case may be, specified on the permit, from a specified foreign port of export (see Sections 302.3, 302.4), said shipment to be made on or before the date indicated for that purpose upon the permit. This date may, in the discretion of the Commissioner correspond with the date given on the application on the line labeled "Latest date shipment will leave above foreign port," but such date shall not be later than four months from the date permit is issued unless, for good cause shown, the Commissioner allows a longer period within which to make the shipment and so specifies on the permit. The maximum quantity of crude opium or coca leaves shall be stated on the permit in terms of pounds.

Sec. 302.8 Shipments in greater or less amount than that authorized.—(a) If the shipment made under the permit is greater than the maximum amount authorized to be imported under the permit as determined at the weighing by the customs officer, such differences shall be seized and forfeited to the Government.

(b) If the shipment made under the permit is less than the maximum amount authorized to be imported under the permit as determined at the weighing by the customs officer, such difference, when ascertained by the Commissioner shall be recredited to the tentative allotment against which the quantity covered by the permit was charged, and the balance of any such tentative allotment with any such recredits will remain available to the importer to whom made (unless previously revoked in whole or in part) for importations pursuant to such permit or permits as are requested and issued during the remainder of the calendar year to which the allotment is applicable. No permit shall be issued for importation of a quantity of crude opium or coca leaves as a charge against the tentative allotment for a given calendar year, after the close of such calendar year, unless for good cause shown, the Commissioner decides to make an exception in a proper case.

Sec. 302.9 Cancellation of permit.—A permit may be canceled after being issued at the request of the importer, provided no shipment has been made thereunder. In the event that a permit is lost, the Commissioner may upon the production by the importer of satisfactory proof, by affidavit or otherwise, issue a duplicate permit. Nothing in this subpart shall affect the right, hereby reserved by the Commissioner, to cancel a permit at any time for proper cause.

Sec. 302.10 Disposition of copies of permit.—If it is decided to approve an application for permission to import crude opium or coca leaves, an import permit shall be prepared in quintuplicate, each copy of which shall be signed by the Commissioner. The five copies of each permit are designated respectively as original, duplicate, triplicate, quadruplicate, quintuplicate. After being signed these copies shall be distributed and shall serve purposes as follows:

(a) The original copy, together with the quintuplicate copy, shall be transmitted to the importer, who will retain the quintuplicate copy on file as his record of authority for the importation, and he shall transmit the original copy of the permit to the foreign exporter. The foreign exporter will submit the original copy of the permit to the proper governmental authority in the exporting country, if required as a prerequisite to the issuance of an export authorization. This copy of the permit will accompany the shipment. Upon arrival of the imported merchandise the collector of customs at the port of entry will forward the original copy of the permit with the bill of lading to the appraiser for the port, who, after appraising the merchandise, will return the original copy of the permit to the Commssioner with a report on the reverse side of such original copy, showing the name of the port of importation, date prepared, net quantity and kind, and report of analysis of the merchandise entered.

(b) The duplicate copy shall be forwarded to the proper governmental authorities of the exporting country.

(c) An additional copy shall be forwarded to the collector of customs at the United States port of entry, which shall be the customs port of destination in the case of shipments transported under immediate transportation entries, in order that said collector may compare it with the original copy and the bill of lading upon arrival of the merchandise.

(d) The other copy of the permit shall be retained on file in the office of the Commissioner.

If a discrepancy is noted between corresponding items upon different copies of a permit bearing the same serial number when compared by the United States collector of customs, the officer shall refuse to permit entry of the importation until the facts are communicated to the Commissioner and further instructions are received.

Sec. 302.12 Examination of shipment by customs officer.—Immediately upon the unlading of crude opium from the importing vessel, the customs officer shall carefully examine the cases or packages, note their condition, seal the packages; and if the port of importation as shown on the permit covering the shipment is the same as the port of first arrival, shall cause the cases or packages to be transported under customs guard and by bonded cartmen to the appraiser's stores, where they shall be placed in a separate and specially protected inclosure. If the shipment is destined to a port of entry other than the port of first arrival, it shall be entered for immediate transportation without appraisement, by bonded carrier, to the port of entry to which destined after examination, notation of condition and sealing by the customs officer at the port of first arrival. Upon arrival of the shipment at the port of entry to which destined, the customs officer shall observe the same procedure as to examination, notation of condition, and sealing as required at the port of first arrival, shall compare the original copy of the permit accompanying the shipping documents with the copy theretofore furnished to the collector of the port in the manner hereinbefore provided, and shall cause the shipment to be transported under customs guard and by bonded cartman to the appraiser's stores, where it shall be placed in a separate and specially protected inclosure.

Sec. 302.13 Duties of appraiser.—(a) The original copy of the permit, with the bill of lading for the shipment shall be forwarded to the appropriate appraiser, who shall take action thereon as provided in Sec. 302.10.

(b) The appraiser shall cause such arrangements to be made as will insure the safe-keeping of the crude opium while in the appraiser's stores.

(c) No delivery of crude opium to the importer from the appraiser's stores shall be permitted until the collector or his representative and the appraiser or his representative shall be satisfied and so note on the delivery permit, after personal examination, that the importer has taken all proper precautions for the safe transportation of the crude opium from the appraiser's stores to the importer's premises or to the premises of the common carrier if shipment is to be made.

(d) Except as specially provided in the regulations in this part, the procedure in the case of coca leaves shall be the same as in the case of other dutiable merchandise.

Sec. 302.14 Purposes for which crude opium and coca leaves may be entered.—(a) Except as otherwise specifically authorized by the Secretary of the Treasury and arranged by the Commissioner, crude opium may be entered only for consumption or for transportation in bond between the port of first arrival and the port of entry specified upon the import permit. No entry of either crude opium or coca leaves shall be permitted except upon an import permit duly issued by the Commissioner, and any quantity of crude opium or coca leaves imported or attempted to be imported not in accordance with such permit and the regulations in this part shall be subject to forfeiture under the act.

(b) Coca leaves may be entered either for consumption or warehouse or for transportation in bond between the port of first arrival and the port of entry specified on the permit covering the shipment.

Sec. 302.15 Foreign trade zones.—No narcotic drug as defined in the act of May 26, 1922, (42 Stat. 596; 21 U.S.C. ch. 6) as amended, shall be permitted to be introduced into a foreign trade zone, established under the act approved June 18, 1934, (48 Stat. 998; 19 U.S.C. 81a-81u), except that such quantities of narcotic drugs as are required for direct emergency medical needs within a zone may be admitted into said zone from customs territory of the United States subject to the requirements of the act of December 17, 1914, (68A Stat. 549; 26 U.S.C. 4701-4707, 4731-4735, 4771-4774, 4721-4726, 4731-4736), as amended, and regulations thereunder. Any narcotic drugs, not admissible into a zone as provided in this section, found within a zone shall be seized and disposed of according to law.

Sec. 302.16 Statements rendered by importers.—Whenever required by the Commissioner, importers shall render to him not later than thirty days after receipt of the request therefor a statement under oath of the stocks of narcotic drugs on hand as of the date specified by the Commissioner in his request, and, if desired by the Commissioner, an estimate of the probable requirements for medical and legitimate uses of the importer for any subsequent period that may be designated by the Commissioner. In lieu of any special statement that may be considered necessary, the Commissioner may accept the figures given upon the monthly return or returns submitted by said importer under the act of December 17, 1914, as amended, and regulations thereunder.

Subpart B—Exports

Sec. 302.17 Exportation.—(a) Except as otherwise provided in paragraph (b) of this section, no person shall in any manner export from or take out of the United States, or cause to be exported or taken out of the United Sates any narcotic drug, nor shall any carrier receive for exportation, or export, or carry out of the United States any narcotic drug, unless and until a permit, in due form to export the narcotic drug in each instance shall have been issued by the Commissioner.

(b) A pharmaceutical preparation, containing a narcotic drug, conforming to the standards set forth in 26 CFR 151.422 as a Class "M" product may be exported or taken out of the United States without compliance with requirements set forth in secs. 302.17-302.27.

Sec. 302.18 Application for export permit.—A separate permit must be obtained for each consignment of narcotic drugs to be exported. Applications for permission to export narcotic drugs shall be made under oath on an approved form provided by the Treasury Department for the purpose, and such application shall be transmitted to the Commissioner of Narcotics, Bureau of Narcotics, Treasury Department, Washington, D.C. 20226. Each application shall show the date of execution, the exporter's internal-revenue registry number, and shall show in the space provided the name and detailed description of the narcotic drug or preparation desired to be exported, the net quantity thereof, the number and size of packages or containers, the name and quantity of the narcotic drug contained in any preparation being stated and the quantity of any solids being given in grams. The application shall contain a printed statement to the effect that the application is made for permission to export the narcotics listed therein, pursuant to the provisions of the Narcotic Drugs Import and Export Act, as amended, and the regulations thereunder. The application shall include the name, address, and business of the consignee, the foreign port of entry, the port of exportation, the approximate date of exportation, the name of the exporting carrier or vessel (if known, or if unknown it should be stated whether shipment will be made by express, freight, or otherwise, exports of narcotic drugs by mail being prohibited), the date and number, if any, of the supporting foreign import license or permit accompanying the application, and the authority by whom such foreign license or permit was issued. The application shall also contain an averment that the packages are marked according to the regulations, and to the best of affiant's knowledge and belief the narcotics therein are to be applied exclusively to medical and legitimate uses within the country to which exported, will not be reexported therefrom, and are needed therein because there is an actual shortage thereof and a demand therefor for medical and legitimate uses within such country. The application shall be signed by the exporter, or by his duly appointed agent whose title shall be given in the space provided therefor, and shall contain the address from which the drugs will be shipped for exportation.

Sec. 302.19 Foreign import license or permit to be submitted.—There shall also be submitted with the application any import license or permit (and a translation thereof if in a foreign language) or a certified copy of any such license or permit issued by competent authorities in the country of destination, or other documentary evidence deemed adequate by the Commissioner showing that the merchandise is consigned to an authorized permittee, that it is to be applied exclusively to medical and scientific uses within the country of destination, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the merchandise for medical and scientific uses within such country. Verification by an American consular officer of signatures on foreign import licenses will be necessary if such licenses do not bear the seal of the officer signing them.

Sec. 302.20 Additional information.—If after careful consideration of the application it is found that approval cannot be given, such fact and the reasons therefor will be communicated to the applicant by the Commissioner. If additional information is required, or other action is necessary to correct any mistake or irregularity in the application or accompanying documents, opportunity will be afforded the prospective exporter by the Commissioner to furnish such additional information or to correct such mistake or irregularity before the application is finally disapproved.

Sec. 302.21 Disposition of copies of export permit.—If, from the facts presented in the application, the Commissioner finds it proper to permit the requested exportation, an export permit shall be prepared in sextuplet in the office of the Commissioner. Each of the six copies of the export permit shall be marked as to disposition and shall be distributed and serve purposes as follows:

(a) The original copy, together with the duplicate and triplicate copies, shall be transmitted to the exporter who will retain the triplicate copy on file as his record of authority for the exportation. The exporter shall present to the customs authorities, at the port of export, except when the shipment is to proceed from an interior port, and then at such interior port, at the time of shipment, the original and duplicate copies. The shipper's export declaration shall be presented to the customs authorities at the port of exportation from the United States. After customs endorsement by export in the space provided on the reverse side of the export permit, the collector of customs shall forward the endorsed original copy of the export permit with the shipment, and return the endorsed duplicate copy to the office of the Commissioner.

(b) The quadruplicate copy of the export permit shall be forwarded to the collector of customs at the port of export for comparison with the original and to be retained for the customs record.

(c) The quintuplicate copy of the export permit shall be sent to the officer in the country of destination who issued the import certificate, or other documentary evidence upon which the export permit is founded.

(d) The sextuple copy of the export permit shall be retained on file in the office of the Commissioner.

Sec. 302.22 Shipment from interior port.—In the event the consignment shall proceed from an interior port, the collector of customs at the interior port, after endorsing the original and duplicate copies of the export permit, shall forward the original copy with the shipment and shall transmit the duplicate copy of the export permit to the collector of customs at the port of lading on the export vessel or conveyance, and the latter collector of customs, after endorsing the duplicate copy shall transmit it to the office of the Commissioner.

Sec. 302.23 Special conditions relative to export permits.—Each export permit shall be serially numbered, and shall be predicated upon a separate import certificate or other documentary evidence, and not more than one shipment shall be made thereon. All export permits shall be entered in a register kept for that purpose in the office of the Commissioner. Export permits are not transferable.

Sec. 302.24 Expiration date.—An export permit shall not be valid after the date specified therein, which date shall conform to the expiration date specified in the supporting import certificate or other documentary evidence upon which the export permit is founded, but in no event shall the date be subsequent to three months after the date the permit is issued. Any unused export permit shall be returned by the permittee to the office of the Commissioner for cancellation.

Sec. 302.25 Who may export.—No export permit will be issued unless and until the applicant shall be duly registered or qualified as an exempt official in accordance with the act of December 17, 1914, as amended, and the regulations thereunder.

Sec. 302.26 Exportation to countries which have exceeded estimate.—No export permit shall be issued for the exportation of any narcotic drug to any country when the Commissioner has information to show that the estimates submitted with respect to that country for the current period, under Article 5 of the Narcotics Limitation Convention of 1931 have been, or, considering the quantity proposed to be imported, will be exceeded. If it shall appear, through subsequent advice received from the Permanent Central Opium Board, that the estimates of the country of destination have been adjusted to permit further importation of the narcotic drug, an export permit may then be issued if otherwise permissible.

Sec. 302.27 Records required for exporter.—The exporter shall keep a record of any serial numbers that might appear on packages of narcotic drugs in quantities of one ounce or more in such a manner as will identify the foreign consignee.

Subpart C—In-Transit Shipments

Sec. 302.28 In-transit shipments.—(a) Each in-transit shipment under section 2 of the act [42 Stat. 597; 21 U.S.C. 180] will be considered by the Commissioner on its individual merits, but in general the regulations governing exports (Sections 302.17-302.27) will be applied so far as practicable.

(b) Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector of customs that they are nonnarcotic, shall be detained and subjected at the carrier's risk and expesne to such examination as may be necessary to satisfy the collector whether they are of a narcotic character. With a view to avoiding such inconvenience, the carrier should not accept in-transit shipments of such articles unless accompanied by properly verified certificates of the shippers, specifying the items in the shipment and stating whether narcotic or not.

Subpart D—Special Coca Leaves

Sec. 302.29 Importation of special coca leaves.—Additional amounts of coca leaves (hereinafter designated as special coca leaves) may be imported only under formal permit issued pursuant to Sec. 302.33, by persons authorized to import in accordance with the regulations in this part. Applications for such authority shall be made in writing to the Commissioner and shall include an estimate of the quantity of leaves required by the applicant for the calendar year to which the application relates.

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Subpart E—General

Sec. 302.52 Importation or exportation by mail prohibited.—Neither importation or exportation of narcotic drugs shall be made by means of the regular mails or by parcel post.

Sec. 302.53 Medical stores on vessels.—Collectors of customs may permit narcotic drugs in reasonable quantities and properly listed as medical stores of vessels to remain on such vessels if satisfied that such drugs are adequately safeguarded and used only for medical purposes. Smoking opium or opium prepared for smoking shall be seized, however, whenever and wherever found within the jurisidiction of the United States.

Sec. 302.54 Drugs seized to be delivered to collector of customs.—All narcotic drugs seized under the Narcotic Drugs Import and Export Act, as amended, by any Federal officer, other than a customs officer, shall be immediately delivered into the custody of the collector of customs in whose district the seizure was made, with a full report of the circumstances of the seizure, provided that where the seizure is made by a narcotic inspector or agent in connection with an investigation which such inspector or agent considers may result in criminal prosecution under any Federal narcotic law, the drugs so seized shall not be delivered into the custody of the collector of customs, but custody of such drugs shall be retained by the appropriate narcotic officer until it is determined that same will not, or will no longer, be required as evidence, whereupon disposition thereof shall be made as provided by law.

Sec. 302.55 Forwarding drugs to Drugs Disposal Committee.—All narcotic drugs which have been forfeited to the Government, and are no longer required for purposes of evidence, shall immediately be forwarded to the Commissioner of Narcotics (Drugs Disposal Committee) for proper disposition.

Sec. 302.56 Disposition of forfeited drugs.—Narcotic drugs forfeited to the United States under the provisions of law may be delivered to any department, bureau, or other agency of the United States Government upon proper application addressed to the Commissioner of Narcotics. The application shall show the name, address, and official title, bureau, or agency, and department, of the person to whom the narcotic drugs are to be delivered, the kind and quantity of narcotics desired, and the purpose for which intended. The delivery of such narcotic drugs shall be ordered by the Commissioner of Narcotics if, in his opinion, there exists a medical or scientific need therefor. The order will be filled by the Drugs Disposal Committee which will obtain a receipt for narcotic drugs delivered.

Sec. 302.57 Penalties.—(a) Persons who fraudulently or knowingly import or bring into the United States or any territory under its control or jurisdiction, any narcotic drug, in violation of the act, or assist in so doing, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale, of any such narcotic drug after being imported or brought in, knowing the same to have been imported in violation of the act, shall be liable to a fine of not more than $5,000 and imprisonment, for not more than ten years.

(b) Persons who export or cause to be exported any narcotic drug in violation of the act are liable to punishment, the maximum liability being to a fine in any sum not exceeding $5,000 nor less than $50, or imprisonment for any time not exceeding two years, or both.

However, attention is invited to the provisions of the act of November 2, 1951 (65 Stat. 767; 21 U.S.C. 174), which provides for additional punishment for second, third, and subsequent offenders in certain cases.

Sec. 302.58 Permits issued prior to effective date of regulations.—Permits to import or export narcotic drugs which shall have been issued by the Commissioner prior to the effective date of the regulations in this part shall continue in force and effect under the laws and regulations in effect when such authorizations were issued, unless specifically revoked by the Commissioner.

Sec. 302.59 Regulations subject to provisions of other pertinent laws and regulations.—The regulations in this part shall be subject to the provisions of the customs, internal-revenue, and other pertinent laws of the United States and regulations promulgated thereunder.

MARIHUANA

Statutory Provisions

Internal Revenue Code of 1954, sections 4745, 4755, and 4761 (26 U.S.C. 4745, 4755, and 4761):

Sec. 4761 Definitions—

(a) Marihuana. The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

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Sec. 4755 Unlawful acts in case of failure to register and pay special tax—

(a) Trafficking.—(1) *Liability.* It shall be unlawful for any person required to register and pay the special tax under the provisions of sections 4751 to 4753, inclusive, to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

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Sec. 4745 Forfeitures.

(a) Ownership by Violators.—Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this part shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(b) Unknown Ownership.—Any marihuana seized or coming into possession of the United States in the enforcement of this part, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

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Regulations

Regulations No. 1 of the Bureau of Narcotics and the Internal Revenue Service relating to the importation, manufacture, production, compounding, sale, dealing in, dispensing, prescribing, administering, and giving away of marihuana, Code of Federal Regulations, title 26, sections 152.71, 152.86:

Sec. 152.71 Importations.—A district director of internal revenue issuing an order form for the procurement of marihuana from a foreign country shall prepare and issue to the transferee (importer) a document reciting that an order form has been issued. The document shall show the serial number of the order form, the name and address of the transferee, the name and address of the transferor, and the kind and quantity of marihuana covered by the order form. The transferee, in order to obtain release of the marihuana from customs' custody, shall present the document to the collector of customs at the port of entry. No importation of marihuana shall be released from customs' custody until the aforesaid document has been presented to the collector of customs. Seeds may be imported by a registered importer without payment of transfer tax or procurement of order forms (see section 4742(b)(5)). A registered importer desiring to import seeds without the use of order forms shall obtain from the district director of internal revenue for the district in which he is registered a certificate of registration (see sec. 152.88), and no importation of seeds shall be released from customs' custody without evidence of issuance of an order form or presentation of a certificate of registration.

Sec. 152.86 Exportations.—Any person desiring to export marihuana to a country which regulates importations thereof shall present to the nearest collector of customs an application on Form 161a, for authorization to make such exportation, which application shall be accompanied by an import permit issued by the government of the country of destination or other evidence which shall be satisfactory to the Commissioner of Narcotics that the applicant has complied with the requirements of the laws and regulations of the country of destination with respect to such proposed exportation thereto. Such application will be forwarded by the collector of customs to the Commissioner of Narcotics who, if satisfied that the applicant has complied with such laws and regulations of the country of destination, shall approve the application, which approval will authorize the collector of customs at the port of export to clear the shipment for exportation without the use of order forms or payment of the transfer tax.

XVII. ETIOLOGICAL AGENTS AND VECTORS

FOREIGN QUARANTINE REGULATIONS, PUBLIC HEALTH SERVICE

Regulations of the United States Public Health Service, Department of Health, Education, and Welfare, relating to the importation of etiological agents and vectors, Code of Federal Regulations, title 42, section 71.156:

Sec. 71.156 Etiological agents and vectors.—(a) A person shall not import into any place under the control of the United States, nor distribute after importation, any etiological agent or insect, animal or plant vector of human disease or any exotic living insect, animal or plant capable of being a vector of human disease unless accompanied by a permit issued by the Surgeon General.

(b) An article or thing coming within the provisions of this section shall not be released from customs custody prior to the receipt by the Collector of Customs of a permit therefor issued by the Surgeon General.

REGULATIONS OF THE DEPARTMENT OF AGRICULTURE

Regulations of the Animal Inspection and Quarantine Division, Department of Agriculture, relating to disease organisms and vectors, Code of Federal Regulations, 1949 Supp., title 9, sections 101.1, 122.1, 122.2:

Sec. 101.1 Definitions.—

* * * * * * *

(d) *Organisms.* All cultures or collections of organisms or their derivatives, which may introduce or disseminate any contagious or infectious disease of animals (including poultry).

(e) *Vectors.* All animals (including poultry) such as mice, pigeons, guinea pigs, rats, ferrets, rabbits, chickens, dogs, and the like, which have been treated or inoculated with organisms, or which are diseased or infected with any contagious, infectious, or communicable disease of animals or poultry or which have been exposed to any such disease. (Sec. 2, 32 Stat. 792, 37 Stat. 832-833; 21 U.S.C. 111, 151-158) [BAI Order 381, March 1, 1949, 9 CFR Part 101]

Sec. 122.1 Permits required.—No organisms or vectors, as defined in section 101.1 (d) and (e) shall be imported into the United States or transported from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, without a permit issued by the Secretary of Agriculture and in compliance with the terms thereof. (Sec. 2, 32 Stat. 792, 37 Stat. 832-833; 21 U.S.C. 111, 151-158). [BAI Order 381, Mar. 1, 1949, 9 CFR Part 122.]

Sec. 122.2 Application for permits.—The Secretary of Agriculture may issue, at his discretion a permit as specified in section 122.1 when proper safeguards are set up to protect the public. Application for such a permit shall be made in advance of shipment and each permit shall specify the name and address of the consignee, the true name and character of each of the organisms or vectors involved, and the use to which each will be put. (Sec. 2, 32 Stat. 792, 37 Stat. 832-33; 21 U.S.C., 111, 151-158) [BAI Order 381, Mar. 1, 1949; 9 CFR Part 122.]

XVIII. FOREIGN QUARANTINE: IMPORTATION OF CERTAIN THINGS

Regulations of the United States Public Health Service, Department of Health, Education, and Welfare, relating to the importation of certain things, code of Federal Regulations, title 42, section 71.151, 71.154-71.155, 71.157, 71.161-71.166.

Sec. 71.151 Lather brushes.—(a) Lather brushes made from animal hair or bristles shall not be permitted entry into any port or place under the control of the United States unless (1) such brushes are permanently marked with the name of the manufacturer or other identifying mark, registered with the Suregon General, (2) and have been determined by the medical officer in charge, in accordance with the following quarantine procedures, to be free from anthrax spores.

(b) The medical officer in charge shall select samples from each shipment of lather brushes and shall subject such samples to laboratory examinations to determine the presence or absence of anthrax spores. If such examinations indicate that the shipment is free from anthrax spores, the medical officer in charge shall furnish the Collector of Customs a certificate to that effect. If such examinations demonstrate that the shipment is not free from anthrax spores, the medical officer in charge shall notify the Collector of Customs that the shipment shall not be permitted entry.

Sec. 71.154 Dogs, cats, and monkeys.—(a) *Defintions.* As used in this section and sec. 71.155, the term:

(1) "Confinement" means restriction of an animal by the owner or his agent to a building or other enclosure in isolation from other animals and from persons except for contact necessary for its care, or, if it is allowed out of such enclosure, muzzling the animal and keeping it on a leash.

(2) "Dog" includes all domestic and wild members of the dog family (Canidae).

(3) "Cat" includes all domestic and wild members of the cat family (Felidae).

(4) "Monkey" includes all monkeys and such other Primates as lemurs, baboons, and chimpanzees.

(5) "United States" means the continental United States, its territories, and possessions (other than the Canal Zone).

(6) "Zoological park" means a place, premises, or an establishment maintained for the exhibition of live animals for recreational or educational purposes.

(b) *General requirements.* (1) Inspection by quarantine officer. All dogs, cats, and monkeys brought into the United States from any foreign country shall be inspected by the quarantine officer at the port of arrival. Only animals in which no evidence of communicable disease (see sec. 71.1(b)) is revealed shall be admitted.

(2) Examination by veterinarian; detention of animals. When a dog, cat, or monkey does not appear to be in good health on arrival (i.e., it has such symptoms as emaciation, lesions of the skin, nervous system disturbances, jaundice, or diarrhea), the medical officer in charge may give the owner or his agent an opportunity to call in a licensed veterinarian to examine the animal and give or arrange for any tests or treatment indicated. The medical officer in charge will consider the findings of any such examination and tests in determining whether the animal may have a communicable disease. The owner shall bear the expense of such examination, tests, and treatment. When it is necessary to detain an animal pending determination of its admissability, the owner or his agent shall provide satisfactory detention facilities which in the judgment of the medical officer in charge will afford protection against the existence of a health hazard. The owner or his agent shall bear the expense of such detention. Detention shall be accomplished at the port of arrival, except that the Chief of the Division of Foreign Quarantine of the Public Health Service may issue instructions specifying control measures under which animals may be shipped to their destination pending determination of their admissibility.

(3) Report of sickness or death; exposed animals. (i) A record of sickness or death of dogs, cats, or monkeys en route to the United States shall be made by the person responsible for care of the animals, and shall be submitted to the quarantine officer at the port of arrival. Animals sick or dead while en route or on arrival shall be separated from other animals as soon as discovered, and held pending any necessary examination as determined by the medical officer in charge.

(ii) When a dog, cat, or monkey appears healthy but, during shipment, has been exposed to a sick or dead animal suspected of having a communicable disease, the exposed animal shall be admitted only if tests or other examination, made at a time when infection with communicable disease could be determined, reveals no evidence that the animal may be infected with such disease. The provisions of subparagaph (2) of this paragraph shall be applicable to such tests or other examination.

(4) Sanitation. When the quarantine officer finds that the cages or other containers of dogs, cats, or monkeys arriving in the United States are in an insanitary condition that may constitute a health hazard:

(i) The animals shall not be admitted in such containers unless the owner or his agent has the containers cleaned; and

(ii) The quarantine officer shall report the matter to the customs officer for investigation pursuant to customs regulations regarding importation of animals under inhumane or unhealthful conditions (19 CFR 12.26 (k)).

(c) *Dogs only; rabies vaccination.* (1) Rabies vaccination is required for a dog that is brought into the United States, unless:

(i) The animal is a wild member of the dog family, in which case it may be admitted but for at least six months after admission the owner or his agent shall restrict it to a building or other enclosure in isolation from other animals and from persons except for contact necessary for its care, or

(ii) For the six months before arrival the dog has been only in a country determined by the Public Health Service to be rabies-free;[1] or

(iii) The owner submits evidence satisfactory the the quarantine officer that the dog is destined for a zoological park, or that it is destined for a research establishment and vaccination would seriously interfere with its use for scientific investigation; or

(iv) The dog on arrival is less than three months of age, in which case it may be admitted but shall be placed in confinement, and the owner shall certify that the dog will be vaccinated at three months of age and remain in confinement for at least one month following vaccination.

(2) Vaccination shall be accomplished with nervous-tissue vaccine more than one month but not more than 12 months before the dog's arrival, or with chicken-embryo vaccine more than one month but not more than 36 months before arrival.

(3) Where vaccination is required, the dog shall be accompanied by a valid certificate of rabies vaccination. This certificate shall: (i) Identify the dog, (ii) be signed by a licensed veterinarian, and (iii) specify that such veterinarian vaccinated the dog with "nervous-tissue" vaccine or with "chicken-embryo" vaccine, on a stated date within the respective time limits provided in subparagraph (2) of this paragraph.

(4) If a dog that is subject to vaccination arrives without a valid certificate of rabies vaccination, it shall not be admitted until it has been vaccinated (except as provided in subparagraph (5) of this paragraph). The owner shall arrange for and bear the expense of this vaccination. Upon admission the dog shall be placed in confinement for at least 30 days.

(5) If a dog arrives with a certificate which is valid except that vaccination was received less than one month before arrival, the dog may be admitted but shall be placed in confinement until at least 30 days have elapsed since vaccination.

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[1] The following countries are presently considered rabies-free. (This list may be changed at any time)

Australia
The Bahama Islands
The Bermuda Islands
Denmark
Fiji
Iceland
Ireland (Eire)
Jamaica
New Zealand
Norway
Sweden
United Kingdom of Great Britain and Northern Ireland

(6) In no case will vaccination be recognized if performed on a dog less than three months of age.

(d) *Dogs and cats; special provisions.* Notwithstanding other provisions of this section, if a dog or cat comes from a locality having a high incidence of rabies and under conditions otherwise indicating that a special hazard of rabies introduction is present, it shall be subject to such additional requirements, or to exclusion, as may be found necessary by the medical officer in charge, and approved by the Chief of the Division of Foreign Quarantine of the Public Health Service, to prevent the introduction of rabies. However, any such dog that has been vaccinated after the age of 3 months as provided in paragraph (c) of this section shall be admitted after 30 days have elapsed since vaccination, if inspection of the animal following this period has revealed no evidence of communicable disease.

(e) *Monkeys only; measures regarding yellow fever.* (1) Monkeys arriving from or having passed through a yellow fever infected local area, or an area in which there is reason to suspect the existence of yellow fever virus, shall be admitted only if inspection of the animals reveals no sign of yellow fever, and there is evidence satisfactory to the medical officer in charge that:

(i) At least nine days have elapsed following their departure from the last such area contacted, or

(ii) They arrive in a mosquito-proof structure, and have been kept in such a structure for at least nine days immediately before arrival, or

(iii) They have an effective immunization against yellow fever.

(2) All openings of the structure referred to in subparagraph (1) of this paragraph shall have either:

(i) Coverings of mosquito-proof material in two layers at least one inch apart, or

(ii) An outer covering of mosquito-proof material and an inner covering or barrier with sufficiently small openings, and sufficiently offset from the outer covering, to prevent monkeys from extending any part of the body to within less than one inch of the outer covering.

For purposes of this paragraph "mosquito-proof material" shall be wire screen or other material substantially as resistant to mechanical injury. It shall have not less than 18 wires or strands per inch each way or substantially the equivalent thereof as specified in instructions issued by the Chief of the Division of Foreign Quarantine.

(f) *Dogs, cats, and monkeys in transit.* The provisions of this section shall apply to dogs, cats, and monkeys shipped through the United States from one foreign country to another, except as provided below:

(1) Animals that appear healthy, but have been exposed to a sick or dead animal suspected of having a communicable disease, need not undergo tests or other examination as provided in paragraph (b) (3) of this section if conditions of their transportation will afford adequate protection to the United States against introduction of communicable disease.

(2) Rabies vaccination is not required for dogs that are shipped by airplane or ship and are retained in custody of the carrier under conditions preventing introduction of rabies.

Sec. 71.155 Dogs, cats, and monkeys; disposal of excluded animals.—A dog, cat, or monkey excluded from the United States under the regulations in this part shall be exported or destroyed. Pending exportation it shall be detained under customs' custody at the port of arrival at the owner's expense. In an area where Aedes aegypti is present, monkeys not meeting requirements of paragraph (e) of sec. 71.154 shall be detained in a mosquito-proof structure as described in that paragraph, pending disposal.

Sec. 71.157 Dead bodies.—The remains of a person dead from a quarantinable disease shall not be brought into a port under the control of the United States unless it is (a) properly embalmed and placed in a hermetically sealed casket, or (b) cremated.

Sec. 71.161 Definitions.—As used in this subpart, the term: (a) "Psittacine birds" includes birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parotlets, beebees, parakeets, lovebirds, lories, lorikeets, and all other birds of the order Psittaciformes.

(b) "United States" means the United States, its territories, and possessions (other than the Canal Zone).

Sec. 71.162 Requests for information.—All requests for instructions, application forms, and other information relating to the regulations in this part should be addressed to the Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333, or to Public Health Service quarantine stations at U.S. ports of entry.

Sec. 71.163 Psittacine bird treatment centers.—(a) *Approval of treatment centers*—(1) *Minimum standards for approval.* To be eligible for approval, psittacine bird treatment centers shall meet the following minimum standards and such other requirements as shall be determined by the Surgeon General as necessary for the proper care and treatment of psittacine birds.

(i) They will be located outside of the United States.

(ii) They will be so constructed as to provide adequate sanitation.

(iii) They will be under the direction and supervision of a director approved by the Surgeon General as qualified by experience, education, and training to supervise and direct the operations of the center.

(iv) They will provide access to the treatment center and to books and records thereof, to authorized representatives of the Surgeon General for inspection purposes.

(v) They will, upon request of the Surgeon General, provide samples of psittacine birds and specimens of psittacine bird blood, food, feces, medication, and related material which the Surgeon General deems necessary to ascertain the compliance of the center with procedures and medication approved by the Surgeon General for psittacine bird treatment.

(vi) They will maintain complete records of all birds received, treated, and shipped including date of each shipment, and name and address of consignee.

(2) *Application for approval.* Application for approval of a treatment center shall be addressed to: Chief, For-

eign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333. The application shall be made on a form prescribed by the Surgeon General and shall provide the following information and any other information which the Surgeon General may deem necessary in determining that satisfactory disease prevention measures will be provided in the care, treatment, shipment, and handling of psittacine birds.

(i) The name and address of the treatment center.

(ii) A detailed description of the treatment center including:

(a) A plan showing location of the treatment center building(s) with respect to other adjacent buildings and structures;

(b) Floor plans of the treatment center building(s); and

(c) A description of the type of building construction.

(iii) A statement of measures that will be used to maintain good sanitation and protect the health of the birds.

(iv) A statement of the method to be used for assaying the medication used in the treatment of the birds, and the name and address of the laboratory that will make the assays.

(v) Evidence satisfactory to the Surgeon General that the treatment center director meets the requisites of subparagraph (1) (iii) of this paragraph.

(3) *Issuance of certificate of approval.* If the Surgeon General finds that the treatment center meets the requisites of approval as established by subparagraph (1) and (2) of this paragraph, he will issue a certificate of approval which will be valid until suspended or revoked.

(b) *Suspension of certificate of approval, and opportunity for hearing.* Whenever the Surgeon General has reasonable ground to believe that a treatment center is not conforming to the requirements of this subpart, he may, upon notice to the treatment center, suspend the certificate of approval, and provide reasonable opportunity for a hearing thereon. The hearing will be within the United States at a place designated by the Surgeon General.

(c) *Revocation of certificate of approval.* The Surgeon General shall revoke a certificate of approval whenever a treatment center whose certificate of approval has been suspended, fails to avail itself of the hearing opportunity; or when after such hearing, the Surgeon General determines that any of the reasons for suspension remain uncorrected and warrant revocation.

(d) *Reinstatement of certificate of approval.* A certificate of approval which has been suspended may be reinstated upon a showing of compliance with required standards and upon such inspection, examination and assurance of continued compliance as may be considered necessary by the Surgeon General.

Sec. 71.164 Entry restrictions.—(a) *Health of birds*—(1) *Disease-free appearance.* Except for birds brought in under the special provisions of subparagraph (3) of this paragrpah, and of paragraph (c) of this section, psittacine birds shall be permitted entry into the United States only if all birds in the shipment appear to the quarantine officer at the port of entry to be free from evidence of communicable disease.

(2) *Specimens for study by Public Health Service.* Upon arrival at a U.S. port of entry, of a shipment of psittacine birds from an approved psittacine bird treatment center, the quarantine officer may take specimens of psittacine bird blood, feces, medication, and related material from such shipment, for laboratory study. If the owner or his representative refuses permission for the taking of such specimens, the shipment shall be denied entry.

(3) *Admission of birds not appearing to be disease-free and of exposed birds.* When a bird, upon arrival at a U.S. port of entry, shows symptoms suggestive of communicable disease (but other entry requirements are met), the medical officer in charge may authorize its admission and admission of healthy appearing birds in the shipment if he is satisfied that adequate protection against introduction of communicable disease will be provided by measures arranged and paid for by the owner. Such measures shall include immediate isolation of the birds and immediate care by a specific licensed veterinarian who shall provide necessary treatment with approved medication and report the birds' condition to the medical officer in charge before the birds are released from isolation.

(b) *Entry document for birds from treatment centers.* Each shipment of psittacine birds from an approved treatment center shall be accompanied by an entry document prescribed by the Surgeon General. This document shall show the treatment center certificate of approval number, shall identify the birds by quantity and kind, shall show the name and address of the consignee, shall be subscribed and sworn to by the treatment center director, before a U.S. Consular or Embassy official in the country where the treatment center is located; and shall contain a certification by said director as to the following points:

(1) *Certification of treatment at treatment center.* That for a minimum of 45 consecutive days immediately before shipment to the United States the birds have been confined in said treatment center and treated with chlortetracycline, or other approved medication, prepared and administered in accordance with procedures approved by the Surgeon General for psittacosis control.

(2) *Certification of treatment and segregation of birds during shipment to the United States.* That arrangements have been made whereby such medication will be continued during shipment of psittacine birds to the United States, that during such shipment said birds will be confined in different cages from any other birds, and that said cages and any outer containers therefor will be so constructed as to permit easy observation of the birds.

(c) *Birds imported for medical research.* Psittacine birds intended for use in medical research may be permitted entry into the United States without prior confinement and treatment if the following conditions are met.

(1) *Permit.* They are accompanied by a permit issued by the Surgeon General. Application for the permit shall be submitted by the person seeking to import the birds for medical research purposes, and shall contain such information and assurances as the Surgeon General may require concerning use of the birds in the proposed research.

(2) *Scientific use.* The scientific basis for the use of

untreated birds is established to the satisfaction of the Surgeon General.

(3) *Protection against disease.* The birds are imported under conditions prescribed by the Surgeon General to minimize the risk of introduction of communicable disease into the United States.

(4) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless otherwise specified in the permit, or admission is authorized pursuant to paragraph (a) (3) of this section.

(d) *Certain birds imported by a zoological park.* Psittacine birds which, in the opinion of the Surgeon General, cannot be treated satisfactorily as specified in paragraph (b) (1) of this section at an approved treatment center outside the United States, may be imported by a zoological park without prior confinement and medication if the following conditions are met.

(1) *Permit.* They are accompanied by a special permit issued by the Surgeon General, pursuant to an application made therefor.

(2) *Restriction on disposition of birds.* Assurance is given that the birds will not be sold or given, either directly or indirectly, to any private individual or dealer in birds.

(3) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(4) *Treatment facilities and staff.* The zoological park has a staff veterinarian and facilities for isolating psittacine birds, and has been approved by the Surgeon General for purposes of the regulations in this part.

(5) *Isolation and treatment.* On arrival at the zoological park the birds will be isolated for at least 45 days, and throughout that period will be treated with approved medication under conditions satisfactory to the Surgeon General.

(e) *Birds imported as pets.* Psittacine birds intended as pets may be imported by the persons who intend to keep them as pets, without prior confinement and treatment, if the following conditions are met.

(1) *Disease-free appearance.* The birds appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(2) *Certificate.* The owner submits a written statement certifying the following points.

(i) That not more than a total of two (2) birds are imported under this paragraph in any 12-month period by members of a family comprising a single household.

(ii) That the birds are not intended for sale or trade in the United States.

(iii) That the requirements of (a) or (b) and of (c) of this subparagraph, will be met.

(a) If the birds have been in the owner's possession and personal custody for at least 90 days immediately before arrival, except for any period occasioned by arrival of the owner and birds on separate conveyances, the owner shall submit a written certification that upon admission, the birds will be treated for 45 days with chlortetracycline or other approved medication. Medication may be administered on the premises of the owner of the birds, but must be under the supervision of a licensed veterinarian, and at the owner's expense. If the owner has not made the necessary arrangements with a licensed veterinarian before arrival of the birds, they shall be excluded unless he arranges for such supervision promptly upon their arrival at the port of entry. Pending such arrangements, the owner shall have the birds held in such a manner that the quarantine officer is satisfied that they do not present a serious health hazard.

(b) If the birds have been in the owner's possession and personal custody immediately before arrival, but for less than 90 days, the owner shall certify in writing that upon admission, the birds will be confined and treated with chlortetracycline or other approved medication for 45 days, in detention facilities on the premises of and under immediate care of a licensed veterinarian. Detention and medication will be accomplished at the owner's expense. Such veterinarian's detention facilities may be located either at the port of arrival or elsewhere in the United States. If the owner has not made the necessary arrangements with a veterinarian before arrival of the birds, they shall be excluded unless he promptly makes such arrangements with a veterinarian on whose premises the required detention and medication will be accomplished. Pending the making of such arrangements, the owner shall provide for having the birds held in such a manner that the quarantine officer is satisfied that they do not present a significant health hazard.

(c) The owner or the veterinarian shall report promptly to the quarantine officer at the port of entry any sickness or death of the birds during the required period of medication and follow the quarantine officer's instructions concerning measures to prevent the spread of infection.

(f) *Birds being returned to the United States.* When psittacine birds have been taken out of the United States and the requirements of parapgraph (e) of this section are not fully complied with upon their return, they may be admitted provided the following conditions are met.

(1) *Disease-free appearance.* They appear to the quarantine officer at the port of entry to be free from evidence of communicable disease, unless admission is authorized pursuant to paragraph (a) (3) of this section.

(2) *Permit.* They are accompanied by a permit for return issued by the Surgeon General. Application for such permit may be denied unless the owner of the birds applies for the permit before their departure from the United States and the application includes a statement as to the itinerary, the number and description of the birds, and such other information as the Surgeon General may require.

(3) *Required information and certification.* At the port of entry the owner furnishes any information that may be required by the Surgeon General, and submits a written statement certifying the following.

(i) That he has complied with the terms of the permit.

(ii) That upon admission the birds will be treated for 45 days with chlortetracycline or other approved medication. The medication may be administered on the premises of the owner of the birds, but must be under the supervision of a licensed veterinarian, and at the owner's expense.

(iii) That the owner has arranged with a licensed veterinarian for such supervision. If the owner has not made the necessary arrangements before arrival of the birds, they shall be excluded unless he arranges for such supervision promptly upon their arrival at the port of entry. Pending the making of such arrangements, the owner shall provide for having the birds held in such a manner that the quarantine officer is satisfied that they do not present a significant health hazard.

(iv) That the owner or the veterinarian will report promptly to the quarantine officer at the port of entry any sickness or death of the birds during the required period of medication, and follow the quarantine officer's instructions concerning measures to prevent the spread of infection.

(g) *Permits:* Terms and cancellation. Any permit issued under paragraph (c), (d), or (f) of this section may contain such conditions and safeguards as the Surgeon General may deem advisable. The permit shall be subject to cancellation if procured or used in a manner inconsistent with this section.

Sec. 71.165 Disposal of excluded birds.—(a) *Birds with healthy appearance.* Healthy appearing psittacine birds which are excluded from admission under these regulations shall, at the owner's option, be exported or destroyed or given to a research facility or zoological park under arrangements approved by the quarantine officer for preventing the spread of infection. Exportation shall be permitted only if the owner exports the birds within a reasonable time as determined by the medical officer in charge. Pending disposal, the birds shall be detained at the port of entry at the owner's expense.

(b) Birds with symptoms suggestive of psittacosis. Psittacine birds which show symptoms suggestive of psittacosis on arrival shall be destroyed promptly unless admission is authorized pursuant to paragraph (a) (3) of § 71.164. Psittacine birds which develop symptoms suggestive of psittacosis while detained pending disposal shall be destroyed promptly unless the medical officer in charge is satisfied that measures arranged and paid for by the owner will provide adequate protection against introduction of communicable disease into the United States.

Sec. 71.166 Penalties.—Any person violating any provision of §§ 71.161 through 71.165 shall be subject to punishment by fine of not more than $1,000 or imprisonment for not more than 1 year, or both, as provided in section 368(a) of the Public Health Service Act (42 U.S.C. 271(a)).

XIX. FOREIGN TRADE STATISTICS REGULATIONS

Regulations of the Bureau of the Census, Department of Commerce, relating to the collection of foreign trade statistics, Code of Federal Regulations, title 15, Part 30.

Part 30—Foreign Trade Statistics

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Authority: sections 30.1 to 30.95 issued under R.S. 161; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, 15 F.R. 3174, 64 Stat. 1263; Department of Commerce Order No. 85, June 21, 1962, 27 F.R. 6397. Interpret or apply 76 Stat. 951, 77A Stat; 13 U.S.C. 301-307; 19 U.S.C. 1202, 1484(e).

Note: The term "Customs Director" or "District Director of Customs" as used in this Part 30 means the Regional Commissioner of Customs if the transaction is at the port of New York City; the district director of Customs if at the headquarters port of a Customs district other than New York City; and the Customs officer in charge of the port if at a nonheadquarters port.

Subpart A—General Requirements—Exporters

Sec. 30.1 General statement of requirement for Shipper's Export Declarations.—(a) Shipper's Export Declarations shall be filed by exporters or their agents in accordance with the definitions, specifications, and requirements of these regulations for all commodities, gold and silver, except as specifically exempted herein, shipped as follows:

(1) To foreign countries or areas (including the Canal Zone and Trust Territories under U.S. administration, and including Foreign Trade Zones in foreign countries or areas) from any of the following:

(i) The United States, including the 50 States and the District of Columbia.

(ii) Puerto Rico.

(iii) Foreign Trade Zones in the United States or Puerto Rico.

(iv) The Virgin Islands of the United States.

(2) Between nonforeign areas as specified below:[1]

(i) To Puerto Rico from the United States.

(ii) To the United States from Puerto Rico.

(iii) To the Virgin Islands of the United States from the United States or Puerto Rico.

(b) Shipper's Export Declarations shall be filed for merchandise moving as described above regardless of the method of transportation. Instructions for the filing of Shipper's Export Declarations for vessels, aircraft, railway cars, etc., when sold foreign appear in section 30.33. Exemptions from these requirements and exceptions to some of the provisions of these regulations for particular types of transactions will be found in subparts C and D of this part.

Sec. 30.2 Related Export Control Requirements.—(a) Under the provisions of the Export Administration Regulations of the Office of Export Administration in the Bureau of East-West Trade, U.S. Department of Commerce (15 C.F.R. Parts 368-399)[2], Shipper's Export Declarations are also required for shipments of merchandise from U.S. Possessions to foreign countries or areas. In these regulations, the term U.S. Possessions includes the Virgin Islands of the United States, Guam Island, American Samoa, Wake Island, Midway Island, and Canton and Enderbury Islands.

(b) For all shipments to foreign countries or areas, the Shipper's Export Declaration is an export control document. In preparing and filing export declarations for shipments to foreign countries and areas, therefore, the shipper must comply with all pertinent export control regulations as well as the requirements of the statistical regulations of this part. For convenience, a few provisions of the Export Administration Regulations and of the Customs regulations closely related to statistical requirements have been incorporated in these regulations. Information concerning export control regulations and information concerning agencies other than the Department of Commerce exercising export control authority for particular types of commodities may be obtained from the Office of Export Administration, Bureau of East-West Trade, Washington, D.C. 20230, or from Department of Commerce District Offices.

Sec. 30.3 Shipper's Export Declaration forms.—(a) Official forms, or privately printed forms conforming in every respect to the official forms, shall be used in complying with requirements for Shipper's Export Declarations as follows:

(1) Except for shipments for which the Shipper's Export Declaration for Intransit Goods (Commerce Form 7513) is required as specified below, the Shipper's Export Declaration shall be prepared on Commerce Form 7525-V or on Commerce Form 7525-V-Alternate (Intermodal). The arrangement of Form 7525-V-Alternate (Intermodal) conforms to and is designed for simultaneous prepara-

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[1] Shipper's Export Declarations are not required for shipments from the United States or Puerto Rico to the United States Possessions, except to the Virgin Islands of the United States, or from a U.S. Possession destined to the United States, Puerto Rico, or another U.S. Possession.

[2] See also the Export Administration Regulations of the Office of Export Administration, which may be purchased from the Government Printing Office or Department of Commerce District Offices.

tion with various other shipping documents commonly used, such as the dock receipt, short form bill of lading, etc. Form 7525-V-Alternate (Intermodal) is acceptable in lieu of Form 7525-V without limitation.

(2) For merchandise shipped in transit through the United States, Puerto Rico, or the Virgin Islands of the United States from one foreign country or area to another, including such merchandise destined from one foreign place to another and transshipped in ports of the United States, Puerto Rico, or the Virgin Islands of the United States, and for foreign merchandise exported from General Order Warehouses or from Foreign Trade Zones, the Shipper's Export Declaration for Intransit Goods (Commerce Form 7513) shall be filed. Form 7513 shall also be filed for merchandise subject to government inspection, examination, or permit arriving from a foreign country which is rejected and exported. (Although Form 7513 provides that it is to be used for foreign merchandise, it should be used also for U.S. merchandise which after having been exported has been returned to or through the United States and is again being exported under any of the conditions described in this paragraph. Except for rejected merchandise, Form 7513 is not to be used for the reexportation of goods for which entry has been made on Customs Forms 7501 or 7502.)

(b) The Shipper's Export Declaration and the Continuation Sheet[3] to the Shipper's Export Declaration (both forms designated Commerce Form 7525-V), and the Shipper's Export Declaration for Intransit Goods (Commerce Form 7513) may be purchased for a nominal price from Customs Directors, Department of Commerce District Offices, and the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, or they may be privately printed. Supplies of the Alternate Intermodal Shipper's Export Declaration and the Continuation Sheet to the Alternate Intermodal Shipper's Export Declaration are not available from Government sales offices but must be privately printed. Sample official Alternate Intermodal Forms and their Continuation Sheets may be obtained from the Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233. Privately printed Shipper's Export Declaration forms must conform strictly to the respective official form in size, wording, color, quality (weight of paper stock), and arrangement, including the instructions printed on the reverse side and also the Office of Management and Budget Approval Number printed in the upper right-hand corner of the face of the form. The quality (weight) of paper stock used in printing the Shipper's Export Declaration form is not less than 16 nor more than 20 pounds commercial substance. Occasional shippers may obtain copies of Shipper's Export Declarations free of charge from local Customs Directors, Post Offices, and Department of Commerce District Offices.

Sec. 30.4 Preparation and signature of Shipper's Export Declarations.—(a) The Shipper's Export Declaration shall be prepared and signed by the shipper, owner, or consignor, or his properly authorized agent. For shipments to foreign countries, if the Shipper's Export Declaration is prepared by an agent his authority to sign such declaration shall be in the form of a properly executed power of attorney, signed by the shipper, owner, or consignor, or in the less formal written authorization printed on the export declaration. The power-of-attorney shall be on file in the agent's office and available for inspection on demand. In every event the data required in the Shipper's Export Declaration shall be complete and correct and shall be based on personal knowledge of the facts stated, or on invoices or information furnished by the principal. Exporters who authorize the preparation of their export declarations by an agent shall provide the agent with information for this purpose which will in every respect meet the specifications in section 30.7. Particular attention is called to the fact that invoices and other commercial documents furnished to the agent for other purposes may not necessarily contain all of the particular types of information needed for the preparation of the export declaration, and special arrangements should be made so that the information needed for the export declaration is noted upon or accompanies the commercial documents furnished to the agent, if he is to prepare the Shipper's Export Declaration.

(b) Shipper's Export Declarations shall be typewritten or prepared in ink or other permanent medium (except indelible pencil). The use of ditto, hectograph, or other duplicating process, as well as the overprinting of selected items of information, is acceptable.

(c) All copies of the Shipper's Export Declaration shall contain all of the information called for in the signature space as to name of firm, address, name of signer, capacity of signer, etc. The original Shipper's Export Declaration shall be signed in ink, but signature of other copies is not required. The use of signature stamps is acceptable as signature in ink. A duly signed legible carbon or other copy of the export declaration is acceptable as an "original" of the Shipper's Export Declaration.

Sec. 30.5 Number of copies of Shipper's Export Declaration required.—(a) Except as provided elsewhere in these regulations the Shipper's Export Declaration shall be delivered to the carrier or postmasters, as specified in sections 30.12 and 30.15, in the following number of copies:

(1) In duplicate for shipments, except by mail, destined to all foreign countries except Canada.

(2) One copy only for shipments to Canada and nonforeign areas.

(3) One copy only for mail shipments to all destinations.

(b) In addition to the standard requirements set forth in paragraph (a) of this section, additional copies of Shipper's Export Declarations may be required for export control purposes by the regulations of the Office of Export Administration or other Government agencies or in particular circumstances by the Customs Director or by the postmaster.

Sec. 30.6 Requirements as to separate Shipper's Export Declarations.—Except as specifically provided in Subpart C, a separate Shipper's Export Declaration (in the required number of copies—see section 30.5) is required for each shipment (consisting of one or more kinds of merchandise) from one consignor to one consignee on a single carrier. In addition, more than one declaration is required for an individual shipment as follows:

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[3] See section 30.10 for instructions as to use of the Continuation Sheet.

(a) For consignments by rail, truck, or other vehicle, requiring more than one rail car, truck, or other vehicle, a separate export declaration is required for the merchandise carried in each such rail car, truck, or other vehicle. However, Customs Directors are authorized to waive this requirement where multiple car shipments are made under a single bill of lading or other loading document and are cleared simultaneously.

(b) Commodities requiring a validated export license shall not be reported on the same export declaration with commodities moving under general license.

Sec. 30.7 Information required on Shipper's Export Declarations.—The following information shall be furnished in the appropriate spaces provided on the Shipper's Export Declaration and shall conform to the requirements set forth in this section. (See section 30.92 for information as to the statistical classification Schedules B, C, D, and P referred to in this section. Also, see section 30.8 for information required on Form 7513 in addition to these requirements.)

(a) *Port of export.* The name of the U.S. Customs port of exportation shall be entered in terms of Schedule D, *Classification of Customs Districts and Ports.* (See section 30.20(c) for definition of port of exportation.) (The boxes for District and Port codes in the upper portion of the form are to be completed by Customs except where the Customs Director requests that they be completed by the person preparing the declaration.) For shipments by mail, the name of the Post Office where the package is mailed shall be inserted in the space for U.S. port of export.

(b) *Method of transportation.* Except on Commerce Form 7513, the method of transportation by which the goods are exported (or shipped to a nonforeign area where the declaration covers such a shipment) i.e., vessel (including ferry), air, or other, shall be indicated by check mark in the appropriate space. For shipments by means of transportation other than vessel or air the specific method of transportation (rail, truck, pipeline, etc.) used should be entered. "Other" should be checked for exported aircraft being flown away, vessels exported under their own power or afloat, or for other vehicles exported other than aboard another carrier, and the manner in which exported should be specified; e.g., "flown away," "in tow," etc.

(c) *Exporting carrier.* Information concerning the specific exporting carrier shall be reported as follows

(1) For shipments by vessel, the name and flag nationality of the ship and the number or name of the pier at which the goods were laden shall be shown.

(2) For shipments by air, the name of the airline shall be reported.

(3) For shipments by other than vessel or air, the carrier shall be identified by name and number or other available designation.

In all cases, the information shall be furnished as to the carrier which transports the merchandise to a foreign country or to an ultimate destination in a nonforeign area, and not as to a different carrier which may have transported the goods to the seaport, airport, or border port of export for final shipment.

(d) *Exporter.* In general, the exporter named on the export declaration shall be the principal or seller in the export transaction. For exports moving under validated license, the exporter named on the Shipper's Export Declaration shall be the licensee named on the validated export license. The address of the exporter (number, street, place, state) shall be shown. (On Form 7513, if an authorized agent is representing the exporter, the name of the exporter as defined herein should be shown on the line labeled "For account of," where "Principal or seller" is indicated below the line on the form.)

(e) *Agent of exporter* (forwarding agent). The name and address of the duly autorized forwarding agent (if any) of the exporter shall be stated. (See section 30.4.) (On Form 7513, the information as to agent (if any) should be shown on the line labeled "Exporter," where "Actual shipper or agent" is indicated below the line on the form.)

(f) *Ultimate consignee.* The name and address (place, country) of the ultimate consignee whether by sale in the United States or abroad or by consignment shall be stated on the export declaration. For exports to foreign countries, the ultimate consignee shall be the same person so designated in the validated export license or authorized to be ultimate consignee under the applicable general license in conformity with Export Administration Regulations.

(g) *Intermediate consignee.* The name and address of the intermediate consignee (if any) shall be stated. For exports to foreign countries, the intermediate consignee shall be the person named as such in the validated export license or authorized to act as such under the applicable general license and in conformity with the Export Administration Regulations. If there is no intermediate consignee, the word "none" shall be entered on the Shipper's Export Declaration. (On Form 7513 the name and address of the intermediate consignee (if any) in a foreign country must be shown below the description of commodities across columns 1 through 6.)

(h) *Foreign port of unloading.* For shipments by vessel and by air the foreign port and country of unloading (i.e., the foreign port and country at which the merchandise will be unladen from the exporting carrier) shall be shown on the Shipper's Export Declaration in addition to the country of ultimate destination. The reporting of "optional" ports of unloading is not permissible except as provided in the Export Administration Regulations.[4] Where optional ports of unloading are named on the Shipper's Export Declaration under the permissible conditions, a Shipper's Export Declaration Correction Form (Form FT-7403) indicating the actual port of unloading shall be filed by the exporter or his agent with the Customs Director as soon as the actual port of unloading is known to the exporter. Information as to port of unloading is required for shipments by vessel and air only.

(i) *Place and country of destination.* Country of destination shall be reported on the Shipper's Export Declaration in terms of the names designated in Schedule C, *Classification of Country Designations for U.S. Foreign Trade Statistics,* as follows:

(1) For shipments under validated export licenses, the place (city) and country of ultimate destination shown on the export declaration shall conform to the country of ultimate destination as shown on the license.

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[4] See Export Administration Regulations. (See footnote 2 above.)

(2) For shipments not moving under validated export license, the final place (city) and country of ultimate destination as known to the exporter at the time of exportation shall be shown on the export declaration. "Country of ultimate destination" means the country in which the goods are to be consumed or further processed or manufactured. The country to which the goods are being shipped is not the country of ultimate destination for purposes of preparing the Shipper's Export Declaration if the exporter has knowledge at the time the goods leave the United States that they are intended for reexport or transshipment in their present form to another known country. For goods shipped to Canada, Panama, Hong Kong, Belgium or The Netherlands for example, special care should be exercised before reporting these countries as the ultimate destination, since these are countries through which merchandise from the United States is frequently transshipped. If the shipper does not know the ultimate destination of the goods, the country of destination to be shown on the export declaration is the last country, as known to the exporter at the time of shipment from the United States, to which the goods are to be shipped in their present form. (For instructions as to the reporting of country of destination for vessels sold or transferred from the United States to foreign ownership, see section 30.33.)

(j) *Marks and numbers.* For purposes of identification of the export declaration with the merchandise it covers, the marks, numbers, or other identification shown on the packages should be inserted. This information is not required for shipments by mail inasmuch as the declaration is presented to the Postmaster with the packages being mailed.

(k) *Number and kind of packages.* The number and kind of packages (i.e., boxes, barrels, baskets, bales, etc.) shall be stated.

(l) *Description of commodities and Schedule B number.*

(1) The correct commodity number as provided in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States,* shall be entered in the space provided on the Shipper's Export Declaration form, and a description of the merchandise shall be supplied in the "Description of Commodities" column in sufficient detail to permit the verification of the Schedule B commodity number. (For shipments from Puerto Rico to the United States, Schedule P, *Commodity Classification for Reporting Shipment from Puerto Rico to the United States,* is substituted for Schedule B.) The name of the commodity, in terms which can be identified or associated with the language used in Schedule B (usually the commercial name of the commodity), and any and all characteristics of the commodity which distinguish it from commodities of the same name covered by other Schedule B classifications shall be clearly and fully stated. Careful reference to the Schedule B classification scheme for related commodities as well as for the commodity being shipped, is necessary in order to establish which particular characteristics must be stated in the description to permit verification of the correct Schedule B commodity number and to eliminate any question that some other commodity number might apply. A description of commodities in the kind of detail specified above is a separate requirement, and the furnishing of the correct Schedule B commodity number does not relieve the exporter of furnishing, in addition, a complete and accurate commodity description in accordance with this requirement. If the shipment is moving under a validated license, the description shown on the export declaration shall conform with that shown on the validated export license. However, where the description on the license does not state all of the characteristics of the commodity which are needed to completely verify the commodity number, as described above, the missing characteristics, as well as the description shown on the license, shall be stated in the commodity description on the Shipper's Export Declaration.

(2) For schedule B commodity numbers for which the classification description in Schedule B is followed by instructions such as "Specify by name," "State species," etc., the specific name of the item or a further identifying description of the item, in addition to the information required by subparagraph (1) of this paragraph, shall be shown. Where a single Shipper's Export Declaration covers more than one item classifiable under a single one of the classifications carrying the "Specify by name" or similar requirement, separate quantities, values, and shipping weights, for the individual items are not required by this part. However, each item should be separately enumerated in the column for commodity description, except that if more than five items are involved, all classifiable under one Schedule B number, only the five items of greatest value in the classification are required to be separately enumerated.

(3) Further explanations regarding the description of commodities and Schedule B number requirements are furnished on the reverse side of the export declaration, in the introduction to Schedule B, and in the pamphlet "Correct Way to Fill Out the Shipper's Export Declaration."

(4) Directions for locating the correct Schedule B commodity number will be found in the introduction to Schedule B. The introduction to Schedule B also contains an explanation regarding use of trade names on Shipper's Export Declarations and a description of special provisions for the classification of certain types of commodities, such as items of mixed materials, used or secondhand items, parts for machinery and equipment, filled metal shipping containers of particular types, toys, military equipment, relief and charity shipments, and shipments valued less than $250. Shippers may consult their local Customs Director, Department of Commerce District Offices (located in principal cities), or write to the Foreign Trade Division, Bureau of the Census, for assistance in determining the correct Schedule B commodity numbers for their shipments.

(m) *Export license number and expiration date (or general license symbol).* For exports to foreign countries the export license number and expiration date, or the general license symbol shall be shown below the description of the commodity.

(n) *Net quantity.* Where a unit of quantity is specified in Schedule B for the commodity number in which the item is classified, net quantity is required to be reported in the specified unit, and the unit in which reported should be indicated on the declaration following the net quantity figure. Where the unit of quantity specified in Schedule B is "No." (number), "Each" or the abbreviation "Ea." may be indicated on the declaration as the unit of quantity. If no unit of quantity is specified in Schedule B for a numbered classification, but a validated export license for the item specifies a unit of quantity, the net quantity shall be reported on the declaration in terms of the unit of quantity specified in the validated license. If neither Schedule B nor an applicable validated license specifies a unit of quantity for the item, net quantity is not required to be reported, and a dash (—) should be entered in the "net quantity" column on the Shipper's Export Declaration. Where Schedule B calls for two units of quantity, net quantity shall be reported in terms of both units. Where the specified unit is in terms of weight (ounces, pounds, etc.) the net quantity should reflect the net weight, exclusive of the weight of barrels, boxes, or other bulky coverings, and exclusive of salt or pickle in the case of salted or pickled fish or meats. Note, however, that for a few commodities where "content lb.," "dry weight," or some similar weight unit is specified in Schedule B, the net quantity to be reported on the Shipper's Export Declaration may be less than the net weight. In the expression of net quantities, fractions of one-half unit or upward will be counted as a whole unit, and fractions of less than one-half unit will be ignored, except that where the total net quantity is less than one-half of the unit prescribed for the commodity in Schedule B "Less than one-half (unit)" should be reported. (For example, where the unit for a given commodity is in terms of "M board feet," a net quantity of 8,400 board feet would be reported as "8 M bd. ft." and a net quantity of 900 board feet would be reported as "1 M bd. ft."; however, a total net quantity of 450 board feet should not be ignored but should be reported as "less than one-half M bd. ft.".)

(o) *Gross (shipping) weight.* In addition to specifying the net quantity in the units required by Schedule B, the gross shipping weight in pounds, including the weight of containers, shall be shown for all shipments by vessel and air. However, for containerized cargo in lift vans, cargo vans, or similar substantial outer containers, the weight of such containers should not be included in the gross weight of the commodities. If gross shipping weight information is not available for individual Schedule B items for the reason that commodities covered by more than one Schedule B number are contained in the same shipping container, approximate shipping weight, estimated as accurately as is practicable, may be shown on the Shipper's Export Declarations for each Schedule B item in the container. The total of the estimated weights must equal the actual shipping weight of the entire container or containers and contents. Gross shipping weight is not required for shipments by mail or for shipments by methods of transportation other than vessel or air.

(p) *"D" (Domestic) or "F" (Foreign).*

(1) The export declaration covering exports to foreign countries shall show foreign goods separately from goods of domestic production. Exports of foreign merchandise include those commodities which are the growth, produce, or manufacture of foreign countries which entered the United States as imports and which at the time of exportation have undergone no change in form or condition or enhancement in value by further manufacture in the United States, Puerto Rico, or U.S. Possessions.

(2) Exports of domestic merchandise include those commodities which are the growth, produce, or manufacture of the United States, Puerto Rico, or U.S. Possessions (including commodities incorporating foreign components), and those articles of foreign origin which have been enhanced in value or changed from the form in which imported by further manufacture or processing in the United States, Puerto Rico, or U.S. Possessions.

(3) The above distinction between domestic and foreign merchandise is intended only for use in reporting on the Shipper's Export Declaration and is intended for statistical purposes only.

(4) On the Shipper's Export Declaration in the column headed "Specify 'D' or 'F'," domestic merchandise shall be identified by the designation "D" and foreign merchandise shall be identified by the designation "F." On the Shipper's Export Declaration for In-Transit Goods, Form 7513, one of the following statements, whichever is appropriate, shall be shown across the body of the form within columns 1 through 6: (i) for in-transit shipments of domestic (U.S.) merchandise, "The merchandise described herein is of the growth, production or manufacture of the United States;" and (ii) for in-transit shipments of foreign merchandise, "The merchandise described herein is of foreign origin."

(q) *Value.*

(1) In general, value shall be reported on the Shipper's Export Declaration in accordance with the definition at the top of the value column on the regular Shipper's Export Declaration (Commerce Form 7525-V): "Value at U.S. Port of Export (Selling price or cost if not sold, including inland freight, insurance and other charges to U.S. port of export) (nearest whole dollar; omit cents figures)." "Selling price" for goods exported pursuant to sale is the exporter's price to his customer net of any unconditional discounts from list price, but without deducting any discounts which are conditional upon a particular act or performance on the part of the customer. Commissions to be paid by a U.S. exporter to his agent abroad, or to be deducted from the selling price by the exporter's agent abroad should be excluded. For goods shipped on consignment without a sale actually having been made at the time of export, the "selling price" to be reported on the Shipper's Export Declaration is the market value at the time of export at the United States port from which exported.

(2) The value reported on the Shipper's Export Declaration shall exclude: the cost of loading on the exporting vessel, aircraft, car or vehicle at the port of exportation; freight, insurance, and any other charges or transportation costs beyond the port of export; and any duties, taxes, or other assessments imposed by foreign countries. The value reported shall include inland or domestic freight or other charges to the seaport, airport, or border port of exportation.

(3) The value to be reported as defined above is (or is equivalent to) an f.a.s. (Free alongside ship) value. There-

fore, where goods are sold f.o.b. a U.S. point other than the port of exportation, freight, insurance, and other costs to the border, sea, or airport of exportation shall be added to the selling price (as defined above) for purposes of reporting value on the Shipper's Export Declaration. If the actual amount of such domestic costs is not available, an estimate of the domestic costs shall be added. Where goods are sold at a "delivered" price, c.i.f. foreign destination, the cost of loading on the exporting carrier at the port of exportation, if any, and freight, insurance, and other costs beyond the port of exportation should be subtracted from the price for purposes of reporting value on the Shipper's Export Declaration. If the actual amount of such costs is not available, an estimate of the costs should be subtracted. Costs added to or subtracted from the selling price in accordance with the above instructions should not be itemized or shown separately on the Shipper's Export Declaration, but the value reported should be the value after the making of such adjustments, where they are required to arrive at "value at U.S. port of export." In the expression of values in export declarations, fractions of a dollar less than 50 cents should be ignored, and fractions of 50 cents or upward should be counted as $1.

(4) For definitions of the value to be shown on the Shipper's Export Declaration for special types of transactions where the commodities are not being exported pursuant to commercial sales, or where subsidies, Government financing or participation, or other unusual conditions are involved, see section 30.30.

(r) *Date of exportation*. Information as to date of exportation is not required to be reported for shipments by vessel or by mail. For other shipments, the date of departure (or date of clearance, if date of departure is not known) shall be shown on the Shipper's Export Declaration as the date of exportation.

(s) *Designation of agent and signature*. For information regarding the use of the space provided on Form 7525-V and 7525-V-Alternate (Intermodal) for authorization of agent, and for requirements as to signature, see section 30.4.

Sec. 30.8 Additional information required on Shipper's Export Declaration for In-Transit Goods (Form 7513).—In addition to the information required under section 30.7, the following information shall be shown on the Shipper's Export Declaration for In-Transit Goods, Form 7513.

(a) *U.S. port of arrival*. The U.S. port at which the merchandise covered by the declaration arrived from a foreign country shall be shown.

(b) *Country from which shipped*. The name of the foreign country where the goods were loaded on the carrier which transported the merchandise to the United States from a foreign country shall be indicated.

(c) *Date of arrival*. The date on which the merchandise arrived in the United States shall be entered.

(d) *Country of origin*. The name of the country of origin as defined in section 30.70(f) shall be indicated.

Sec. 30.9 Requirements for separation and alignment of Items on Shipper's Export Declaration.—For each Schedule B classification (see section 30.7(l)) for which merchandise is included in the shipment, a separate item shall be shown on the Shipper's Export Declaration and the separate description of commodities, shipping weight, "D" or "F" designation, Schedule B commodity number, net quantity and value for the item shall be correctly aligned horizontally, and clearly distinguishable from information applying to other Schedule B items on the same declaration. However, where merchandise covered by a single Schedule B classification is moving under more than one general license, under more than one validated export license, or under a validated export license which shows two or more listings for the same Schedule B number, a separate item shall be shown on the Shipper's Export Declaration for each license or for each listing on the license.[5] For merchandise moving under validated license, information required by export control regulations as to export license number and expiration date, and information as to whether the export is a partial or complete shipment against the license, shall be shown immediately below the corresponding description of commodities on the Shipper's Export Declaration. Where two or more items are classified under the same Schedule B number and moving under the same general license, or where no license is required, the quantities, values and shipping weights of such invoice items, wherever practical, should be combined and the information shown on a single horizontal line of the Shipper's Export Declaration. Commodities of U.S. manufacture incorporating foreign components shall be reported under the Schedule B number for the exported commodity, and a separate item shall not be shown for the imported components. If the exporter desires to record the imported components separately on the export declaration for purposes of identification with a temporary import bond, a notation may be made in column 10 as to the imported components which have been incorporated in the exported commodity. In the preparation of the export declaration, shippers shall conform to the line spacing on all copies.

Sec. 30.10 Continuation sheets for Shipper's Export Declaration.—When more horizontal lines than the number provided on the Shipper's Export Declaration form are required to list all of the merchandise covered by the declaration, Continuation Sheets should be utilized.[6] In lieu of official Continuation Sheets, additional copies of the Shipper's Export Declaration form with no portion torn off or removed, may be used as continuation sheets. All continuation sheets shall be numbered in proper seqence and securely stapled to the first sheet, which must be the export declaration itself. Each continuation sheet shall show the Customs port of exportation and the country of ultimate destination for the shipment. The following statement with the blank filled in as appropriate, shall be inserted on the last line of the Shipper's Export Declaration itself between columns 9 and 15:

"This declaration consists of this sheet and ______ continuation sheets."
No.

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[5] See section 30.6 for prohibition against reporting general license commodities on the same Shipper's Export Declaration with commodities moving under a validated license.

[6] See section 30.3(b).

Sec. 30.11 Authority to Require Production of Documents.—For purposes of verifying the completeness and accuracy of the information reported as required under sections 30.7 and 30.8, and for other purposes under the regulations in this part, Customs is authorized to require the owners and operators of exporting carriers, as well as the exporters or their agents, either at the time of exportation or within a period of 3 years subsequent thereto, to produce for inspection or copying shipping documents, invoices, orders, packing lists, correspondence, as well as any other relevant documents and to furnish other information bearing upon a particular exportation. The Bureau of the Census is similarly authorized to require the production of such documents. Customs shall refuse to accept Shipper's Export Declarations containing known errors and omissions, and may require their correction, but acceptance by the Customs Director shall not be construed as evidence that all requirements have been met, and such acceptance shall not relieve the exporter of the responsibility to furnish complete and correct information at a later time if all requirements have in fact been properly met.

Sec. 30.12 Time and Place Shipper's Export Declarations Required to be Presented.—For shipments by mail, the Shipper's Export Declaration as required in section 30.1 shall be presented to the postmaster with the packages at the time of mailing. For shipments other than by mail, except as otherwise provided, the Shipper's Export Declaration in the number of copies required by section 30.5 shall be delivered to the exporting carrier prior to exportation. It is the duty of the exporter (or his agent) to deliver the required number of copies of the Shipper's Export Declaration to the exporting carrier prior to exportation; failure of the exporter (or his agent) to do so constitutes a violation of the provisions of these regulations, and renders such exporter (or his agent) subject to the penalties provided for in section 30.95. For shipments by pipeline, the Shipper's Export Declaration is not required to be presented prior to exportation, and exportation will be permitted upon the understanding that the exporter or his agent, within 4 working days after the end of each calendar month, will file with the Customs Director having jurisdiction for the pipeline, a Shipper's Export Declaration in the number of copies specified in section 30.5 to cover exports to each consignee during the calendar month.

Sec. 30.13 [Reserved]

Sec. 30.14 [Reserved]

Sec. 30.15 Procedure for Presentation of Declarations Covering Shipments from an Interior Point.—For shipments from an interior point, the Shipper's Export Declaration in the number of copies required in section 30.5 may be prepared and delivered by the exporter or his agent to the inland carrier to accompany the merchandise to the exporting carrier at the seaport, airport, or border port of exportation, or it may be otherwise delivered directly to the exporting carrier. In either case, the Shipper's Export Declaration must be in the exporting carriers' possession prior to exportation. (See section 30.6 for requirements for a separate set of Shipper's Export Declarations for each car, truck, or other vehicle, covering only the merchandise exported in that car, truck, or vehicle.)

Sec. 30.16 Corrections to Shipper's Export Declarations.—Exporters (or their agents) shall report corrections, cancellations, or amendments to information reported on Shipper's Export Declarations to the Customs Director at the port of exportation (or, in the case of mail shipments, to the Postmaster at the post office where the shipment was mailed) as soon as the need for such correction, cancellation, or amendment is determined. Such corrections, cancellations, or amendments may be made directly onto the originally filed Shipper's Export Declarations if the originally filed declarations have not already been mailed to the Bureau of the Census. If the originally filed Shipper's Export Declarations have already been mailed to the Bureau of the Census, a photocopy, carbon, or other legible copy of the originally filed Shipper's Export Declaration, on which the incorrect data are neatly lined out and the corrected data entered hereon, shall be promptly filed with the Customs Director at the port of exportation (or, in the case of mail shipments, with the Postmaster at the post office where the shipment was mailed). Such correction copies should have the words "CORRECTION COPY" conspicuously shown in the upper right portion of the form. The provisions of this paragraph relating to the reporting of corrections, amendments, or cancellations of information, shall not be construed as a relaxation of the requirements of the laws and regulations pertaining to the preparation and filing of Shipper's Export Declarations.

Subpart B—General Requirements—Exporting Carriers

Sec. 30.20 General statement of requirement for the filing of manifests and Shipper's Export Declaration by carriers.—(a) Carriers transporting merchandise from the United States, Puerto Rico, or U.S. Possessions to foreign countries; from the United States or Puerto Rico to the Virgin Islands of the United States; or between Puerto Rico and the United States; shall not be granted clearance, where clearance is required, and shall not depart, where clearance is not required, until manifests (for vessels, aircraft, and rail carriers) and Shipper's Export Declarations have been filed with the Customs Director as specified below, except as provided in section 30.24. Where for reasons beyond the control of the exporting carrier, a given declaration (or declarations) has not been received prior to exportation or departure, and the merchandise has been laden, such carrier shall not as a result of this circumstance be required to offload the merchandise, or to delay its clearance (where clearance is required) or departure (if clearance is not required). However, the provisions of section 30.24 remain applicable.

(b) Except as otherwise specifically provided, declarations should not be filed at the place where the shipment originates if it is to be transshipped within the United States area before being dispatched to a foreign country or to its final destination in a nonforeign area. This applies to shipments originating in Puerto Rico or the Virgin Islands of the United States being forwarded to the United States for transshipment to another destination, and to shipments originating in the United States and being forwarded to Puerto Rico or the Virgin Islands of the United States for transshipment, as well as to merchandise being transshipped in Customs Districts within the States of the United States. In such cases, the declarations should be filed only with the Customs Director at the actual port of exportation.

(c) For purposes of these regulations, the port of exportation is defined as the Customs port at which or nearest to which the land surface carrier transporting the merchandise crosses the border of the United States into foreign territory, or, in the case of exportation by vessel or air, the Customs port where the merchandise is loaded on the vessel or aircraft which is to carry the merchandise to a foreign country or to a nonforeign area of ultimate destination.

Sec. 30.21 Requirements for the filing of manifests. — (a) *Vessels.* Vessels transporting merchandise as specified in section 30.20 (except vessels exempted by paragraph (d) of this section) shall file a complete manifest on Customs Form 1374 or similar form approved by the Customs Director. The manifest shall be filed with the Customs Director at the respective ports where the merchandise is laden, and shall show the destination of the vessel and list all the cargo so laden. For each item of cargo, the manifest shall show the marks and numbers of the packages; and a description of the articles, contents, quantities, and values, shall be shown; however, a notation on the manifest that values are as stated on the Shipper's Export Declaration, copies of which are attached to such manifest, will be accepted. There shall also be shown for each item of cargo the bill of lading number shown on the declaration covering the item, except that bill of lading numbers are not required on manifests covering cargo destined for Canada or a nonforeign area. If an item on a manifest is one for which a Shipper's Export Declaration is not required under the regulations in this part, a notation shall be inserted on the manifest as to the basis for the exemption. In lieu of a listing of cargo on Customs Form 1374, the list of cargo may be shown on bills of lading, cargo lists, or other similar commercial forms, attached to the manifest: Provided, that the manifest is completely executed on Customs Form 1374 or similar form approved by the Customs Director, except for particulars as to cargo: *And provided also,* That the bills of lading, cargo lists, or other commercial forms are securely attached to that form in such manner as to constitute one document; that they are incorporated by suitable reference on the face of the form such as "Cargo as per bills of lading attached," or "Cargo as per commercial forms attached," and that there is shown on the face of each bill the information required by Customs Form 1374 for the cargo covered by that document. The manifest of vessels clearing for foreign countries shall also show the quantities and values of bunker fuel taken aboard at that port for fueling use of the vessel, apart from such quantities as may have been laden on vessels as cargo. The quantity of coal shall be reported in tons, and the quantity of fuel oil shall be reported in barrels of 42 gallons. Fuel oil shall be described in such manner as to identify diesel oil as distinguished from other types of fuel oil.

(b) *Aircraft.* Aircraft transporting merchandise as specified in section 30.20 shall file a complete manifest on Customs Form 7509. Such manifest shall be filed with the Customs Director at the respective ports where the merchandise is laden aboard the aircraft which is to carry the merchandise to the foreign country or to its ultimate destination in a nonforeign area, and shall list all the cargo so laden and show, for each item, the air waybill number or marks and numbers on packages, the number of packages, and the nature of the goods, except as otherwise provided in this paragraph (b). In addition, for any item for which a Shipper's Export Declaration is not required under the regulations in this part, a notation as to the basis for the exemption shall be inserted on the manifest, or on the waybill filed in lieu of listing on the manifest as provided below. In lieu of listing the cargo on the manifest, (1) in the case of shipments on an air waybill, a copy of each document may be attached to the cargo manifest, the numbers of such air waybills listed in the body of the manifest, and the statement "Cargo as per Air Waybills Attached" noted on the manifest, or (2) on direct departures only, for shipments requiring a Shipper's Export Declaration a copy of each export declaration may be attached to the cargo manifest. In such case the Air Waybill numbers of such declaration shall be listed on the cargo manifest in the column for air waybill numbers, and the statement "Cargo as per Export Declarations Attached" noted on the manifest. Under this alternative procedure, any shipments not requiring a Shipper's Export Declaration shall be listed on the manifest, and a notation as to the basis for the exemption shall be shown. For aircraft carrying merchandise on direct flights between the United States and Puerto Rico, where the conditions of 19 C.F.R. 6.8(e) of the Customs Regulations are met and complied with, a cargo manifest shall be required only for any merchandise transported as cargo which is excepted from the filing of Shipper's Export Declarations or for any cargo for which Shipper's Export Declarations cannot be timely filed. For cargo requiring Shipper's Export Declarations, a declaration shall be made on the general declaration required by Customs Regulations (on the cargo manifest if one is required by the preceding sentence). This declaration shall state either "Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on this flight except that listed on the cargo manifests" or "All required cargo documents will be filed within the 4-day bond period." If the latter declaration is used, when the Shipper's Export Declarations and any required cargo manifest are in fact filed they shall be accompanied by the following declaration:

> Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on aircraft No. ________ flight No. ________ cleared direct for ________ on ________ except cargo listed on any cargo manifest required to be filed for such flight.
>
> Airline ________________
>
> Authorized Agent ________________

(c) *Rail carriers.* Rail carriers transporting merchandise as specified in section 30.20 shall file a car manifest. Such manifest shall be filed with the Customs Director at the border port of exportation, giving the marks and numbers, the name of the shipper or consignor, description of the goods and the destination thereof. The manifest may be a waybill, or a copy thereof, or a copy of the manifest prepared for foreign customs. For any item for which a Shipper's Export Declaration is not required by these regulations, a notation on the manifest, or an oral declaration to the Customs Director, shall be made by the carrier as to the basis for the exemption.

(d) *Carriers not required to file manifests.* These regulations do not require the filing of manifests by carriers other than vessels, aircraft and rail carriers, nor by vessels under 5 net tons engaged in trade with a foreign country otherwise than by sea, nor by vessels specifically exempted from entry by section 441, Tariff Act of 1930, as amended.

Sec. 30.22 Requirements for the filing of Shipper's Export Declarations by departing carriers.—(a) To meet the requirements of section 30.20 for the filing of Shipper's Export Declarations, every departing carrier transporting merchandise as specified in section 30.20, including vessels, aircraft, rail carriers, trucks and other vehicles, ferries, and every other carrier shall deliver to the District Director of Customs at the port of exportation, with the manifest of the carrier, if a manifest is required by the regulations in this part, Shipper's Export Declarations prepared and signed by the exporters or their agents covering all the cargo for which such Shipper's Export Declarations are required by the regulations in this part.

(b) The exporting carrier shall be responsible for the accuracy of the following items of information (where required) on the declaration: Name of carrier (including flag, if vessel carrier), foreign port of unloading, and the bill of lading or air waybill number.

(c) Except as provided in paragraph (d) of this section, when a transportation company finds, prior to the filing of declarations and manifest as provided in (a) of this section, that due to circumstances beyond the control of the transportation company or to inadvertence, a portion of the merchandise covered by an individual Shipper's Export Declaration has not been exported on the intended carrier, the transportation company shall correct the descriptions and the quantity, value and shipping weight (if any) amounts shown on the declaration to reflect the amount actually exported on the carrier named in the Shipper's Export Declaration. If a short shipment of this type is discovered by the carrier after the Shipper's Export Declaration in question has been delivered to the District Director of Customs, the transportation company will immediately notify the District Director of Customs so that a correction can be made by the Director on all copies of the declaration if it is still in his possession. If the statistical copy of the declaration has been transmitted by the Director to the Bureau of the Census at the time of such notification, the Director will require the filing of a correction form, Form FT-7403, by the exporter or his agent, to effect the correction of the export declaration. If the balance of the short-shipped merchandise is subsequently exported, a new Shipper's Export Declaration, complete in all detail, will be required. If the short-shipped merchandise is exported on a carrier of the transportation company named in the original declaration, and if such exportation is made within a reasonable period, the District Director of Customs may accept a declaration executed by such transportation company; otherwise the new declaration shall be executed by the exporter or his agent. In any event, the new declaration shall contain the following statement:

These commodities or technical data were included, but not shipped, on a Shipper's Exports Declaration filed at ______________ on ______________.
(Port) (Date)

(d) When a shipment by air covered by a single Shipper's Export Declaration is divided by the transportation company and exported in more than one aircraft of the transportation company, the "split shipment" procedure provided in section 30.41 shall be followed by the transportation company in delivering manifests and Shipper's Export Declarations to the District Director of Customs.

(e) Exporting carriers are authorized to amend incorrect shipping weights reported on Shipper's Export Declarations, and to prorate total shipping weights among the individual commodities where such carriers are able to do so based upon information in their possession.

Sec. 30.23 Requirements for the filing of Shipper's Export Declarations by pipeline carriers.—The operator of a pipeline may transport merchandise to a foreign country without prior filing of Shipper's Export Declarations, on the condition that within 4 days following the end of each calendar month the pipeline operator will deliver to the Customs Director Shipper's Export Declarations prepared by the exporter or his agent covering all exportations through the pipeline to each consignee during the month.

Sec. 30.24 Clearance or departure of carriers under bond on incomplete manifest or Shipper's Export Declarations.—(a) For purposes of the regulations in this part, clearance (where clearance is required) or permission to depart (where clearance is not required) may be granted to any carrier by the Customs Director prior to the filing of a complete manifest as required under the regulations in this part, or prior to the filing by the carrier of all required Shipper's Export Declarations, provided that a bond as specified in paragraph (b) of this section is filed with the Customs Director. The condition of the bond shall be that a complete manifest, where a manifest is required by the regulations in this part, and all required Shipper's Export Declarations, shall be filed by the carrier not later than the fourth business day after clearance (where clearance is required) or departure (where clearance is not required) of the carrier for all carriers except as otherwise specifically provided in subparagraphs (1) and (2) of this paragraph.

(1) For shipments aboard a U.S. flag carrier between the United States and Puerto Rico, or from the United States or Puerto Rico to the Virgin Islands of the United States, the condition of the bond shall be that a complete manifest (where a manifest is required) and all required Shipper's Export Declarations shall be filed by the carrier not later than the seventh business day after departure.

(2) For rail carriers to Canada, the condition of the bond shall be that the manifest and all required Shipper's Export Declarations shall be filed not later than the 15th business day after departure.

In the event that any required manifest and all required Shipper's Export Declarations are not filed by the carrier within the period provided by the bond, then a penalty of $50 shall be exacted for each day's delinquency beyond the allowed period of 4 days, 7 days, or 15 days, as appropriate; and if the completed manifest, where required, and all required Shipper's Export Declarations are not filed within 3 days following the period of 4 days, 7 days, or 15 days, allowed under the bond, then for each succeeding day of delinquency a penalty of $100 shall be exacted, but no penalty shall exceed $1,000 in total. Remission or mitigation of the penalties provided herein may be granted in those cases where, in the judgment of the administering authority provided in paragraph (b) of this section, the penalties were incurred without willful negligence or fraud, or other circumstances justify a remission or mitigation.

(b) Bonds filed in accordance with the provisions of this section 30.24 may take the form of a single entry bond on Customs Form 7567 in the amount of $1,000 or of a term or blanket bond on Customs Form 7569 in the amount of $10,000 or such larger amount as the Secretary of the Treasury may prescribe or in other approved form. Except as provided below in this paragraph, there shall be shown on the bond, or on a separate listing which refers to and is made a part of the bond, a pro forma list of shipments on board the departing carrier for which Shipper's Export Declarations have not been filed with the Customs Director. The list shall show for each such shipment the name of the shipper, the country to which exported, marks and numbers of the packages, the number and kind of packages, a description of the goods and the value (or estimated value). However, where such waiver will not interfere with the ability of the Customs Director to check on performance under the bond, or with the identification of the shipment for purposes of obtaining statistical information in the event of failure of performance under the bond, the Customs Director may waive the requirement for the pro forma list of shipments for which declarations are missing, or may accept a list containing less than the items of information enumerated above. Approval of bonds and administration of the provisions of the regulations in this part relating to performance by carriers under such bonds, including remission and mitigation of penalties incurred by the carriers, are hereby delegated to the Commissioner of Customs or his delegate to be carried out in accordance with the provisions of section 623 of the Tariff Act of 1930, as amended, and the regulations of the U.S. Customs Service issued pursuant thereto.

Subpart C—Special Provisions Applicable Under Particular Circumstances

Sec. 30.30 Values for certain types of transactions.--The following special arrangements govern the values to be reported for shipments of the following unusual types:

(a) *Subsidized exports of agricultural products.* Where provision is made for the payment of an export subsidy to the exporter for the exportation of agricultural commodities under a program of the Department of Agriculture, the value required to be shown on the export declaration is the f.a.s. value as defined in section 30.7 (q), based on the selling price paid by the foreign importer, excluding the amount of the subsidy.

(b) *GSA exports of excess personal property.*—For exports of General Services Administration excess personal property, the value to be shown on the Shipper's Export Declaration will be the total of the estimated "fair value," if any, at which the property was transferred to GSA by the holding agency, plus charges, when applicable, to the port of export, such as packing, rehabilitation, inland freight or drayage. The estimated "fair value" may be zero, or it may be a percentage of the original or estimated acquisition costs. (Export declarations for such shipments will bear the notation "Excess Personal Property, GSA Regulations 1-III, 303.03.")

Sec. 30.31 Identification of certain nonstatistical and other unusal transactions.—In order to enable the Bureau of the Census to make a judgment as to the statistical or other status of certain export transactions, Shipper's Export Declarations covering the following types of transactions should carry a statement beneath the commodity description clearly identifying the transactions as such:

(a) Merchandise exported for repair only, and other temporary exports to be returned to the United States which are not sold and do not enter the trade of the country to which shipped, e.g., merchandise for exhibition (not for exhibition and possible sale), horses or other animals for breeding or grazing, etc.

(b) The return of merchandise previously imported for repair only and other returns to the foreign shipper or temporarily imported merchandise (declared as such on importation) on which no alteration or processing has been performed; e.g., foreign merchandise being returned to the country of origin after importation into the United States for exhibition only.

(c) Shipments of material in connection with construction, maintenance, and related work being done on projects for the U.S. Armed Forces. Equipment and other material shipped for temporary use on such projects and intended for return to the United States should be identified separately from construction material or other goods which will become a part of or which will be consumed in the construction or maintenance work.

Sec. 30.32 Exports of complete machines or other complete units in partial shipment lots.—Unassembled machines or other units shall be classified as complete machines or units, and not as parts thereof, even when the integral components are not shipped simultaneously, or are shipped through more than one port. When more than one shipment is involved in the exportation of one or more complete machines or units, the components actually included in each shipment shall be reported in column 10 of the Shipper's Export Declaration (column 18 of the Alternate-Intermodal declaration) with the value (or estimated value) and, where required, shipping weight, of these components only shown in columns 15 and 11 (columns 24 and 19 of the Alternate-Intermodal declaration), respectively. In each case the Schedule B number for the complete machine shall be reported in column 13 of the

Shipper's Export Declaration (column 22 of the Alternate-Intermodal declaration), and a statement shall be entered beneath the commodity description to the effect that the declaration represents the first, second, third, etc., partial shipment of integral components to comprise one (or other number) complete machine (and the machine should be completely described in terms of Schedule B). The statement should also include the total value and, where required, shipping weight for the entire consignment. The declaration covering the final shipment shall be conspicuously labeled "Final Shipment," in addition to being appropriately numbered in the series of declarations.

Sec. 30.33 Vessels, planes, cargo vans, and other carriers and containers sold foreign.—(a) Vessels, locomotives, rail cars, ferries, trucks, other vehicles, trailers, pallets, cargo vans, lift vans, or similar shipping containers are not considered "shipped" in terms of these regulations in this part when they are moving, either loaded or empty, without transfer of ownership or title, in their capacity as carriers of merchandise or as instruments of such carriers, and Shipper's Export Declarations are not required therefor when so moving.

(b) However, Shipper's Export Declarations shall be filed for such items, when moving as merchandise pursuant to sale or other transfer from ownership in the United States to ownership abroad. When a new vessel built in the United States for foreign account clears under a certificate of record (Commerce Form 1316) a Shipper's Export Declaration must be furnished by the agents or prepared by Customs for statistical purposes. If a vessel, car, vehicle, or container, whether in service or newly built or manufactured, is sold or transferred to foreign ownership while in the Customs area of the United States or at a port in such area, Shipper's Export Declarations shall be filed in accordance with the general requirements of the regulations in this part, at the port through or from which the vessel, car, vehicle, or container first leaves the United States after sale or transfer. If the vessel, car, vehicle, or shipping container is outside the Customs area of the United States at the time of sale or transfer to foreign ownership, Shipper's Export Declaration shall be filed at the last port of clearance or departure from the United States prior to sale or transfer. The country of destination to be shown on the Shipper's Export Declaration for vessels sold foreign is the country of new ownership. The country for which the vessel clears, or the country of registry of the vessel, should not be reported as the country of destination on the Shipper's Export Declaration unless such country is the country of new ownership.

Sec. 30.34 Return of exported cargo to the United States prior to reaching its final destination.—(a) When a vessel carrying cargo which cleared from a port in the U.S. Customs area returns to the U.S. Customs area before it reaches its destination and discharges any or all of its cargo in the United States, the Customs Director at the port of unlading shall notify the Foreign Trade Division, Bureau of the Census, of this fact. The letter of notification shall contain the following information: Name of the carrier, dates of clearance, manifest numbers assigned at the various Customs ports at which cargo was laden and the final disposition of all cargo. If the vessel returns to the port at which the cargo was originally laden, the letter of notification shall also include the bill of lading numbers shown on each export declaration filed at the time of clearance.

(b) For shipments by air where the Shipper's Export Declarations are filed at the port of lading, if it becomes necessary because of an emergency to unload part or all of the cargo at another port in the U.S. Customs area (other than the port in Puerto Rico or U.S. Possession which is its final destination), the Shipper's Export Declarations filed at the port of lading need not be cancelled if the merchandise is reladen on another plane at the second port within a reasonable time and proceeds to its country of destination. If there is unreasonable delay in reloading, the originally filed declarations should be cancelled and new declarations should be filed at the second port of lading. If for any reason the merchandise remains permanently in the United States, the Customs Director at the first port of lading must be notified to cancel the Shipper's Export Declarations which have been filed. This provision is not intended as an exception from the requirements of section 30.12 as to the place at which Shipper's Export Declarations are required to be filed; it is intended only for cases where an emergency requires an unintended unloading after the requirements of section 30.12 have been met.

Sec. 30.35 Shipments between U.S. points in transit through Canada diverted to Canada.—When commodities being shipped in transit through Canada to other United States ports without the filing of a Shipper's Export Declaration (as provided in section 30.55) are diverted after leaving the United States, for import into Canada, Shipper's Export Declarations in accordance with the requirements of these regulations shall be filed with the Customs Director at the port of exportation by the exporter or his agent promptly upon such diversion.

Sec. 30.36 [Reserved]

Sec. 30.37 Exceptions from the requirement for reporting complete commodity detail on the Shipper's Export Declaration.—(a) Where it can be determined that particular types of U.S. Government shipments, or shipments for Government projects, are of such nature that they should not be included in the export statistics, and further, where no detriment to the export control program would be involved, special arrangements can sometimes be made to waive compliance with specific portions of the requirements of section 30.7 with respect to the reporting of detailed information on the Shipper's Export Declaration. Such exceptions will be made only upon application by the exporter and specific authorization to the Customs Director and the exporter for the particular project or shipment, approved by both the Bureau of the Census and the Office of Export Administration, and will be conditioned upon a prescribed identification which must appear upon the declarations. The particular types of shipments for which such exceptions may be possible are as follows:

(1) Shipments to a contractor under a Department of Defense or other armed service contract for the construction of facilities for the use of the U.S. armed services.

(2) Temporary exports by or to U.S. Government agencies.

(3) Shipments of supplies and material to contractors in the Panama Canal Zone for the construction and/or maintenance of the Panama Canal Zone and its facilities.

(b) Special exemptions to specific portions of the requirements of section 30.7 with respect to the reporting of detailed information on the Shipper's Export Declaration may also be granted by the Bureau of the Census with the concurrence of the Office of Export Administration for certain Department of Defense shipments, or shipments made on behalf of the Department of Defense, to foreign governments under the cash reimbursable provisions of the Mutual Defense Assistance Program (military sales), if and when arrangements have been made for the Bureau of the Census to obtain the desired statistical information other than through the reporting of complete commodity detail on the Shipper's Export Declaration.

Sec. 30.38 [Reserved]

Sec. 30.39 Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.—(a) A Customs Director, if he finds that no administrative difficulties are involved, may authorize the filing of one Shipper's Export Declaration per month, in lieu of a declaration for each shipment as required by section 30.6, for the following types of frequently recurring shipments by air from a single consignor from one U.S. airport to one country of destination and one port of unlading via a single airline:

(1) Newspapers and magazines.

(2) Newsreel films, mats, proofs, etc.

(3) Airline timetables being shipped by the airline.

(4) Shipments of registered carrier stores by a United States or Canadian airline to each of its installations or agents abroad which are exported under General License RCS of the Export Administration Regulations set forth in section 371.12(d) of Chapter III of this title.

Such authorization will be subject to the requirement that a declaration covering all such shipments made during the month named on the declaration will be filed by the consignor with the Customs Director no later than the fifth working day of the month following the month covered, and also, except for shipments under subparagraph (4) of this paragraph, subject to the requirement that a Continuation Sheet or other attachment filed with the declaration will list the names of the individual consignees and the number of items shipped to each.

(b) In addition to the procedures authorized in paragraph (a) of this section, the Bureau of the Census, with the concurrence of the Office of Export Administration, may, on an individual case basis, authorize exemption from the requirement of section 30.6 that an export declaration be filed for each shipment, the exemption to be conditioned upon the filing, after the close of each month, of a single export declaration or other statistical report, in an approved format including punch cards, computer tapes, etc., covering shipments made during the month to all destinations except countries in country groups S and Z, as defined in the Export Administration Regulations of the Office of Export Administration (Parts 368-399 of this title),[7] as follows:

(1) Application for permission to file export information on a monthly basis may be made directly to the Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, with a copy sent to the Office of Export Administration, Bureau of East-West Trade, Washington, D.C. 20230.

(2) Authorization will be issued only when in the judgment of the Bureau of the Census complete and accurate information will be available on a monthly basis from the records of the applicant, and where the exemption from the filing of a Shipper's Export Declaration for individual shipments represents a reduction of reporting procedure in the individual case. (In general, these special reporting procedures will be limited to shippers who, on a continuing basis, make at least twenty (20) shipments per month out of an individual port by each of any one or more methods of transportation, and who are able to furnish summary data each month in all the detail required for statistical processing in terms of the various classifications and cross-classifications now required for statistical purposes, such as commodity data by port, by method of transportation and/or by name of carrier.) Where export control is a consideration, such authorizations will be granted when in the judgment of the Office of Export Administration the applicant also has demonstrated that it has established adequate internal operating procedures and has taken other satisfactory safeguards to assure compliance with Export Administration Regulations without government review of individual declarations.

(3) (i) Procedures for clearing individual shipments through Customs without the presentation of a declaration, and the exact type of monthly or other report to be delivered, will be discussed and specifications developed in connection with each application.

(ii) Such authorizations will be subject to the requirement that declarations or other approved summarizations containing the necessary statistical information for all such shipments made during a given month will be submitted no later than the fifth working day of the month following the month of export. Moreover, records must be maintained in such a manner that the Bureau of the Census, the Office of Export Administration, or the U.S. Customs Service may, if desired, verify that a given shipment was, in fact, included in a particular monthly report.

(c) Authorization for the filing of monthly declarations or other summarizations under paragraphs (a) and (b) of this section may be terminated at any time.

(d) Part 386 of the Department of Commerce Export Administration Regulations contains complete information on the requirements of the Office of Export Administration in connection with the granting of authorizations for the filing of monthly summaries of export shipments.

Sec. 30.40 Single declaration for multiple consignees.—As a further exception to the requirements of section 30.6, shippers are authorized, subject to the approval of the Customs Director, to file one Shipper's Export Declaration (in duplicate) for all shipments, other than those made to U.S. Government agencies, offices, establishments, or representatives of any of these, which are laden on one vessel or aircraft and destined to go to one port in Puerto Rico, the Virgin Islands of the United States, or the Canal Zone. For such shipments no consignee information need be furnished whether such shipments are made to one or several consignees.

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[7] Country groups are established and maintained by the Office of Export Administration. See Export Administration Regulations (15 C.F.R. Parts 368-399) for lists of countries included in each country group.

Sec. 30.41 "Split shipments" by air.—When a shipment by air covered by a single Shipper's Export Declaration is divided by the exporting transportation company at the port where the declaration is filed, and part of the shipment is exported on one aircraft and part on another aircraft of the same transportation company, the following procedure shall apply:

(a) The carrier will deliver the manifest copy of the declaration to the District Director of Customs with the manifest covering the flight on which the first part of the split shipment is exported, and will make no changes on the declaration. However, the manifest will show in the "number of packages" column the actual portion of the declared total quantity being carried and will carry a notation to indicate "Split Shipment."

(b) On each subsequent manifest covering a flight on which any part of a split shipment is exported, a prominent notation "SPLIT SHIPMENT" will be made adjacent to the item on the manifest for ready identification. For the last shipment the notation will read "SPLIT SHIPMENT, FINAL."

Each subsequent manifest covering a part of a split shipment shall also show in the "number of packages" column only the merchandise carried on that particular flight and a reference to the total amount originally declared for export, e.g., 5 of 11, or 5/11; and immediately following the line showing the portion of the split shipment carried on that flight, a notation will be made showing the air waybill number shown on the original Shipper's Export Declaration and the portions of the originally declared total carried on each previous flight together with the number and date of each such previous flight, e.g., original Shipper's Export Declaration AWB 123; 2 of 11 flight 36A, June 6; 4 of 11, flight 40X, June 10.

(c) Export declarations will not be required for these subsequent shipments.

Subpart D—Exemptions From the Requirements for the Filing of Shipper's Export Declarations

Sec. 30.50 Procedure for shipments exempt from the requirements for Shipper's Export Declarations.—Except as provided below, where an exemption from the requirement for the filing of a Shipper's Export Declaration is provided in this subpart, a notation describing the basis for the exemption shall be made on the bill of lading, air waybill, or other loading document for carrier use, with a reference to the number of the section in this part where the particular exemption is provided so that the carrier at the time of lading, and the Customs Director at the time of exportation, may verify that no declaration is required. If none of the above named documents is used, the person transporting the merchandise must be prepared to identify to the Customs Director at the port of exportation, at the time of exportation but prior to departure, any merchandise which is exempt from the requirement for the filing of a Shipper's Export Declaration and explain to the Customs Director the basis for the exemption. Where shipments are exempt from the requirement for Shipper's Export Declarations on the basis of value and destination, the appearance of the value and destination on the bill of lading, air waybill, or other loading document for carrier use, shall be acceptable as evidence of the exemption, and no reference need be made to the particular section of these regulations where the exemption is provided.

Sec. 30.51 Government shipments not generally exempt.—Except as provided below in this subpart, Shipper's Export Declarations are required for exports by or to U.S. Government agencies, whether or not shipped on a Government bill of lading. No general exemption is provided for Government shipments, as such.

Sec. 30.52 Special exemptions for shipments to the U.S. armed services.—Shipper's Export Declarations are not required for the following types of shipments to the U.S. armed services:

(a) All commodities, whether shipped commercially or through Government channels, consigned to the U.S. armed services for their exclusive use, including shipments to armed services exchange systems. (This exemption does not apply to shipments which are for the ultimate use of the U.S. armed services but which are not consigned to the U.S. armed services. However, special exceptions to the requirements of these regulations which may in some circumstances apply to shipments for the ultimate use of the U.S. armed services but not so consigned are provided in section 30.37.)

(b) Department of Defense Military Assistance Program Grant-Aid shipments being transported as Department of Defense cargo under the provisions of Customs Circular Letters VES-5-MA, March 8, 1954 (MC 133), VES-5-MA, June 17, 1954 (MC 133 S.1), VES-5-MA, May 24, 1956 (MC 133 S.2) and RES-20-MC, January 25, 1960 (CC 76). Under arrangements with the Department of Defense, information on these shipments for inclusion in U.S. export statistics will be furnished directly to the Bureau of the Census by the Department of Defense. This exception from the filing of Shipper's Export Declarations does not apply to Military Assistance Program Grant-Aid shipments to which a foreign government has taken title before exportation or to any Grant-Aid Military-Aid Program shipment moving in any manner other than as Department of Defense cargo. (See section 30.37 for possible exceptions to the full reporting requirements of section 30.7 for certain military sales shipments not exempt from the requirement for the Shipper's Export Declaration.)

Sec. 30.53 Special exemptions for certain shipments to U.S. Government agencies and employees.—Shipper's Export Declarations are not required for the following types of shipments to U.S. Government agencies and employees:

(a) Office furniture, office equipment, and office supplies shipped to and for the exclusive use of U.S. Government offices.

(b) Household goods and personal property shipped to and for the exclusive and personal use of U.S. Government employees.

(c) Food, medicines, and related items and other commissary supplies shipped to U.S. Government offices or employees for the exclusive use of such employees, or to U.S. Government employee cooperative or other associations for subsequent sale or other distribution to such employees.

(d) Books, maps, charts, pamphlets, and similar articles shipped by U.S. Government offices to U.S. or foreign libraries, Government establishments or similar institutions.

(e) All commodities shipped to and for the exclusive use of the Panama Canal Zone Government or the Panama Canal Company.

Sec. 30.54 Special exemptions for mail shipments.—Shipper's Export Declarations are not required for the following kinds of shipments by mail:

(a) Shipments (except shipments requiring a validated export license) where one or more of the following conditions are present:

(1) Either the consignor or the consignee is not a business concern.

(2) The shipment is valued at $250 or under.

(3) The goods are not mailed for commercial consideration.

(b) Technical data regardless of value, licensing requirements, and the other criteria set forth in paragraph (a) of this section.

Sec. 30.55 Miscellaneous exemptions.—Shipper's Export Declarations are not required for the following kinds of shipments:

(a) Diplomatic pouches and their contents.

(b) Human remains and accompanying appropriate receptacles and flowers.

(c) Shipments from one point in the United States to another thereof by routes passing through Mexico or Canada.

(d) Shipments from one point in Canada or Mexico to another point thereof by routes through the United States.

(e) Shipments, other than by vessel, of merchandise for which no validated export licenses are required, transported in bond through the United States, and exported from another U.S. port, or transshipped and exported directly from the port of arrival.

(f) Shipments to foreign libraries, Government establishments, or similar institutions, as provided in section 30.53(d).

(g) Shipments of single gift parcels as encompassed by Office of Export Administration General License GIFT.

(h) Shipments (except shipments requiring a validated export license) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries included in country groups S, W, Y, and Z, as defined in the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368-399),[8] where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is $250 or under: Provided, however, that this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to compile statistics on $250-and-under shipments.

(i) Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.

(j) Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

(k) Shipments for use in connection with NASA tracking systems under Office of Export Administration Project License DL-5355-S.

(l) Shipments of aircraft parts and equipment, and food, saloon, slop chest, and related stores, provisions, and supplies for use on aircraft, by a U.S. airline to its own installations, aircraft, and agents abroad, under Department of Commerce, Office of Export Administration General License RCS.

Sec. 30.56 Conditional Exemptions.—Shipper's Export Declarations are not required for the following classes of commodities when they are not shipped as cargo under a bill of lading or an air waybill and do not require a validated export license, but the exporter should be prepared to make oral declaration to the Customs Director, if required:

(a) Baggage and personal effects, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft, such as:

(1) Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.

(2) Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.

(3) Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, perambulators, and their containers. *Provided*, that the above-indicated baggage and personal effects (i) shall include only such articles as are owned by such person or members of his immediate family; (ii) shall be in his possession at the time of or prior to his departure from the United States for the foreign country; (iii) are necessary and appropriate for the use of such person or his immediate family; (iv) are intended for his use or the use of his immediate family; and (v) are not intended for sale.

(b) Tools of trade of persons leaving the United States covering usual and reasonable kinds and quantities of implements, instruments and tools of trade, occupation, or employment and their containers. *Provided,* that the above-indicated tools of trade (1) shall include only such articles as are owned by such persons; (2) shall be in his possession at the time of or prior to his departure from the United States for a foreign country; (3) are necessary and appropriate and intended for the personal use of such person; and (4) are not intended for sale.

(c) Carriers' stores (including merchandise carried in shops aboard carriers for sale to passengers), supplies, and equipment for departing vessels, planes, or other carriers, including usual and reasonable kinds and quantities of bunker fuel, deck engine and steward department stores, provisions and supplies, medicinal and surgical supplies, food stores, slop chest articles, and saloon stores or supplies for use or consumption on board and not intended for unlading in a foreign country, and including usual and reasonable kinds and quantities of equipment and spare parts for permanent use on the carrier when necessary for proper operation of such carrier and not intended for unlading in a foreign country. Hay, straw, feed, and other appurtenances necessary to the care and feeding of livestock while enroute to a foreign destination are considered part of carriers' stores of carrying vessels, trains, planes, etc.

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[8] Country groups are established and maintained by the Office of Export Administration. See Export Administration Regulations (15 C.F.R. Parts 368-399) for lists of countries included in each country group.

(d) Dunnage of usual and reasonable kinds and quantities necessary and appropriate to stow or secure cargo on the outgoing or any immediate return voyage of an exporting carrier, when exported solely for use as dunnage and not intended for unlading in a foreign country.

Sec. 30.57 Information on export declarations for shipments of types of goods covered by section 30.56 not conditionally exempt.—(a) In those cases where Shipper's Export Declarations are required for articles enumerated in section 30.56 (a) through (d) only by virtue of their being shipped under a bill of lading or an air waybill (no validated license is required) the export declaration should clearly show in the column for commodity description, in lieu of the complete commodity description a statement that the shipment consists of baggage, personal effects, household effects, ship's stores, crew's effects, or as appropriate. In such cases, Schedule B commodity numbers should not be shown on the declarations.

(b) In those cases where the articles enumerated in section 30.56(a) through (d) require a validated export license, (whether or not shipped under a bill of lading or an air waybill) the Shipper's Export Declaration must identify the shipment as baggage, personal effects, etc., and must contain all the information normally required for any exportation made under a validated export license, i.e. complete commodity description, license number, Schedule B number, quantity, value, etc.

Subpart E—General Requirements—Importers

Sec. 30.70 Statistical information required on import entries.—Information for statistics on merchandise entering the United States from foreign countries, from the Virgin Islands of the United States, and from U.S. Foreign Trade Zones is required to be reported by importers on the following Customs entry and withdrawal forms respectively required by U.S. Customs regulations for individual transactions: Customs Forms 7500, 7501, 7502, 7505, 7506, 7519, 7521, and 7535, and Customs Form 7512 when used to document withdrawal for exportation, transportation and exportation, withdrawal for transportation and exportation, and immediate export. The following items of information for statistics shall be reported on the respective forms:[9]

(a) *District and Port Code.* (All forms.) The Customs district code number and the port code number (as shown in Schedule D, *Classification of Customs Districts and Ports*) for the Customs port of entry or filing shall be supplied. (Where Customs does not require that the District and Port codes be inserted by importers, the codes will be filled in by Customs so that all entries and withdrawals received by the Bureau of the Census will bear these codes.)

(b) *Importing vessel or carrier.*

(1) (Customs Forms 7501, 7502, 7512, and 7521.) Information is required as to the carrier or means of transportation by which the merchandise was transported from a foreign country to the first port of unloading in the United States. If the merchandise has been further transported in bond between ports in the United States after having been unladen from the carrier on which it arrived in the United States, the name of the domestic carrier shall not be substituted, and the information furnished shall reflect the name of the carrier or means of transportation by which the merchandise arrived in the first U.S. port of unlading.

(2) For merchandise arriving in the United States by vessel, the name of the importing vessel is required. The importing vessel is the vessel which transported the merchandise from the foreign port of lading to the first U.S. port of unlading.

(3) For merchandise arriving in the United States by air, the name and nationality of the importing airline is required. The importing airline is the airline which carried the merchandise from the foreign port of lading to the first U.S. port of unlading, and not a domestic airline carrying the merchandise after the initial unlading in the United States.

(4) For merchandise arriving in the United States by means of transportation other than vessel or air, the means of transportation from the foreign country is required, in such terms as "parcel post," "registered mail," "railroad," "trucks," "pipeline," etc.

(c) *Foreign port of lading.*

(1) (Customs Forms 7501, 7502, 7512, and 7521.) For merchandise arriving in the United States by vessel or air, the name and country of the foreign port at which the merchandise was actually loaded on the vessel or aircraft that carried the merchandise to the United States is required. For shipments originating in either Canada or Mexico, and arriving in the United States from Canada or Mexico by rail, truck, pipeline, or other nonvessel/nonair mode of transportation, supply the name of the province (Canada) or state (Mexico) where the merchandise was first loaded for exportation to the United States.

(2) For merchandise transshipped overseas in the course of shipment to the United States, whether or not covered by a through bill of lading, the information furnished shall reflect only the foreign port at which the merchandise was loaded on the vessel, aircraft, or other carrier which transported it to the first U.S. port of unlading. Neither the foreign port of original lading nor any port of lading other than the last foreign port of lading shall be substituted. When a single Customs form covers merchandise loaded at more than one foreign port, the foreign port of lading shall be indicated separately above

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[9] The information required for statistical purposes is in most cases also required by Customs regulations for other purposes. (See section 30.80 for special reporting instructions for merchandise entering United States Customs Territory from United States Foreign Trade Zones.)

each item (or group of items) for the merchandise loaded at each foreign port.

(d) *U.S. port of unlading.*

(1) (Customs Forms 7501, 7502, 7512, and 7521.) For merchandise arriving in the United States by vessel or air, the U.S. port (as listed in Schedule D) at which the merchandise was unloaded from the importing vessel or aircraft is required, whether or not such port is a Customs port of entry. (For example, if entry is filed at the Port of Los Angeles for merchandise unloaded from the importing vessel at Long Beach, California, the entry should show Long Beach as the port of unlading.)

(2) When merchandise is transported in bond from the U.S. port where unladen from the importing vessel or carrier to another U.S. port or ports to be entered for consumption or warehouse, the port of unlading required to be shown on the consumption or warehouse entry is the port or point where the merchandise was unladen from the importing vessel or carrier before transportation in bond.

(e) *Date of importation.* (All forms.) For merchandise arriving in the United States by vessel, the month, day, and year on which the importing vessel transporting the merchandise from the foreign country arrived within the limits of the U.S. port at which the merchandise was or is to be unladen is required. The date of importation to be reported for merchandise arriving in the United States other than by vessel is the date on which the merchandise arrives within the limits of the United States.

(f) *Country of origin.*

(1) (All forms.) Country of origin shall be in the "marks and numbers and country of origin" column on entry and withdrawal forms (in the "marks and numbers" column on Forms 7512 and 7500) the "country of origin" space on the Special Customs Invoice form, and in a conspicuous place on commercial invoices supplied to Customs where the Special Customs Invoice form is not required. On multipage entries, country of origin should be shown on each page.

(2) Country of origin shall be reported in terms of the names designated in Schedule C, *Classification of Country Designations For U.S. Foreign Trade Statistics*, unless a more specific geographic area is required to be shown for other purposes. The country of origin is defined as the country in which the product was mined, grown or manufactured. Further labor, work or material added to an article in another foreign country or the Virgin Islands of the United States must effect a substantial transformation in order to render such other country the "country of origin." Such substantial transformations include smelting of ores, refining of crude products, and the like. The country of origin is not changed when the merchandise is subjected in another country merely to minor manipulations, such as sorting, grading, and the like. When the merchandise is invoiced in or exported from a country other than that in which it originated, the actual country of origin shall be specified rather than the country of invoice or exportation. The country of origin for imports of scrap and waste is the country in which the merchandise was reduced to scrap or waste. In the case of such commodities as industrial diamonds or antiques, if the origin of the merchandise is not known or cannot be ascertained with reasonable effort, the country from which the merchandise has been shipped shall be shown and shall be indicated as the "Country of Shipment."

(3) Except as provided below, the country of origin shown on import entries and withdrawals should be based on information furnished by the foreign supplier on import invoices. The importer should inform his foreign supplier of the requirements and definitions of this section and instruct the foreign supplier to furnish information on the invoice as to country of origin in accordance with the above definition. If an invoice from the foreign supplier is not available at the time of entry, the importer shall enter the correct country of origin according to his best knowledge. In any case where the importer has reliable knowledge that the country of origin shown on the invoice is incorrect, he shall enter on the form the correct country of origin according to his best knowledge, indicating that it is a correction.

(4) When a single Customs form covers merchandise from more than one country of origin, the country of origin shall be indicated separately against each item (or group of items).

(g) *Description of merchandise.* (All forms.) Except on Customs Form 7512 when used as a Transportation and Exportation (T and E) or Immediate Exportation (I E) entry, the description of merchandise shall be in terms of the Tariff Act in accordance with the Tariff Schedules of the United States Annotated for Statistical Reporting (TSUSA) and in sufficient detail to permit the identification of the TSUSA statistical reporting number to which each commodity properly belongs. The name of the commodity and any and all characteristics of the commodity which distinguish it from commodities of the same name covered by other TSUSA statistical reporting numbers shall be clearly and fully stated. For merchandise classified in TSUSA classifications for which the instruction "specify by name" is shown in TSUSA the specific name of the commodity or a further identifying description in addition to the description in the more general terms of the commodity classification definition is required. When Customs Form 7512 is used as a Transportation and Exportation or Immediate Exportation entry importers need only report in terms of the first five digits of TSUSA (i.e., in terms of TSUS).

(h) *Gross weight in pounds.* (Customs Forms 7501, 7502, 7512, and 7521, for merchandise transported to the United States by vessel or air only.) Gross shipping weight in pounds shall be reported in column (2a) immediately below the description of merchandise (in "Gross Weight in Pounds" column on Form 7512 on the same horizontal line with value). Separate gross weight information is required for the merchandise covered by each reporting number, but if gross weight is not available for each reporting number included in one or more packages, approximate shipping weight for each item shall be estimated and reported. The total of these estimated weights should equal the actual gross shipping weight of the entire package or packages. However, for containerized cargo carried in lift vans, cargo vans, or similar substantial outer containers, the weight of such containers should not be included in the gross shipping weight of the merchandise covered by each reporting number.

(i) *Net quantity.* (All forms except 7535.) When a unit of quantity is specified in TSUSA for the reporting number under which the item is reported, net quantity shall be reported in the specified unit, and (except where the unit is "No." (number)) the unit in which reported shall also be shown on the entry following the net quantity figure. In cases where two units of quantity are shown for the commodity in TSUSA, net quantity shall be reported on the import entry in each of the specified units with the unit indicated in each case. The quantity in terms of the unit marked with a superior "v" in TSUSA should be shown on the entry on the same horizontal line with the value. The quantity in terms of any other units specified in TSUSA should be shown below the first quantity and should be enclosed in parentheses. If no unit of quantity is specified in TSUSA for the reporting number under which the item is reported, net quantity is not required to be reported on the import entry, and an "X" shall be entered in the "net quantity" column. Where the unit of quantity specified in TSUSA is "tons," long tons of 2,240 pounds shall be reported unless short tons of 2,000 pounds are specified in TSUSA. Quantities shall be shown in whole units unless fractions of units are required for Customs purposes.

(j) *Value.* (All forms.) The dollar value shall be reported on the forms in accordance with the definitions set forth in the Tariff Schedules of the United States Annotated (TSUSA) and sections 402 and 402a of the Tariff Act of 1930, as amended. Moreover, the value shall be reported in accordance with the format prescribed in the U.S. Customs Regulations.

(k) *TSUSA reporting number.* (All forms.) Except on Customs Form 7512 when used as an intransit entry, the reporting number according to the current edition of the Tariff Schedules of the United States Annotated shall be shown in the column provided on the form. The reporting number assigned shall reflect the correct TSUSA classification of the merchandise and be consistent with the rate of duty applicable to the commodity. Where correct reporting as indicated in TSUSA requires the use of more than one TSUSA commodity number, all required reporting numbers will be shown for an item on the Customs form. On Customs Form 7512 when used as a Transportation and Exportation or Immediate Exportation entry, the reporting number, the first five digits of TSUSA (TSUS), is required to be shown in the column provided on the form for "Description and Quantity of Merchandise." This code should appear to the right of that column, on the same line as the reported gross weight and value.

Subpart F—Special Provisions for Particular Types of Import Transactions

Sec. 30.80 Merchandise entering U.S. Customs Territory from U.S. Foreign Trade Zones.—The information for statistics on merchandise entering U.S. Customs Territory from U.S. Foreign Trade Zones to be reported on the Customs entry and withdrawal forms required by U.S. Customs Regulations is the same as that required to be reported for merchandise entering the United States directly from foreign countries, except as provided or more fully explained below.

(a) *Importing vessel or carrier.* (Customs Forms 7500, 7501, 7502, 7505, 7506, 7512[10] and 7521.) Information is required as to the carrier (name of vessel or airline) or means of transportation by which the merchandise was transported from the foreign country to the U.S. Foreign Trade Zone. If an import entry covers merchandise which arrived at the Foreign Trade Zone in more than one vessel or aircraft, the name of the vessel or airline shall be indicated separately against each item (or group of items) comprising the cargo of each different vessel or aircraft.

(b) *Foreign port of lading.* (Customs Forms 7501 and 7502.) For merchandise which arrived by vessel or air, the name and country of the foreign port at which the merchandise was loaded on the vessel or aircraft that carried it to the U.S. Foreign Trade Zone or to the first U.S. port of unlading prior to entry into the Zone is required. For shipments originating in either Canada or Mexico and arriving from Canada or Mexico by rail, truck, pipeline, or other nonvessel/nonair mode of transportation, the name of the province (Canada) or state (Mexico) where the merchandise was first loaded onto the carrier for exportation to the United States Foreign Trade Zone or to the United States prior to entry into the Zone is required.

(c) *U.S. port of unlading.* (Customs Forms 7501 and 7502.) For merchandise which arrived by vessel or air, the name of the U.S. Foreign Trade Zone where the merchandise was unloaded from the vessel or aircraft or the first U.S. port of unlading where it was unloaded prior to entry into the Zone, as the case may be, is required.

(d) *Date of importation.* (All forms.) The month, day and year on which the importing vessel or carrier which transported the merchandise from the foreign country arrived at the U.S. Foreign Trade Zone at which it was unladen is required to be shown immediately following the name of the vessel or carrier. In such cases, the date required to be shown as the date of importation is the date the merchandise entered U.S. Customs Territory from the U.S. Foreign Trade Zone. For "privileged foreign merchandise" the date required to be shown as date of importation is the date Customs Form 7502 was filed in application for privileged status.

Sec. 30.81 Imports of Merchandise into Guam.—(a) Carriers of merchandise to Guam shall not be permitted to unload cargo in Guam until the master or other person in charge of the carrier shall deliver to the Government of Guam at the place of unloading a manifest, cargo list, freight list or equivalent document showing a detailed account of merchandise destined for Guam on board such carrier, with the numbers and description of the packages according to their usual name or designation.

(b) For each shipment imported into Guam except as listed in paragraph (d) below, the importer in Guam shall furnish to the Government of Guam at the port of entry of the merchandise at the time of or prior to taking possession of such merchandise, the commercial invoice covering the shipment attached to a copy of the bill of lading or air waybill signed by the carrier. (Where the shipment is one for which no bill of lading (or air waybill) is utilized only a copy of the commercial invoice need be furnished.) In individual cases, where warranted in the opinion of the Government of Guam, the Government of Guam may release merchandise to the consignee prior to receipt of the commercial invoice and/or bill of lading or air waybill in the case of perishable articles or other merchandise, the immediate delivery of which is necessary.

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[10] Not required on Customs Form 7512 for merchandise being shipped in transit through the United States from a U.S. Foreign Trade Zone to a foreign country.

(c) Information concerning individual transactions furnished to the Government of Guam pursuant to these regulations may not be disclosed by those having possession of or access to any copies of such information for official purposes, to anyone other than the exporter or importer except as specifically directed by the Bureau of the Census.

(d) The following kinds of shipments are not to be included in the statistics on shipments from the United States to Guam and the documentation prescribed in paragraphs (a) and (b) above shall not be required for statistical purposes:

(1) Shipments to the U.S. Armed Forces;

(2) Shipments of office furniture, office equipment, and office supplies, to and for the exclusive use of U.S. Government offices;

(3) Baggage and personal effects, accompanied or unaccompanied, of persons leaving the U.S., and tools of trade, as described in Section 30.56 (a) and (b).

Sec. 30.82 Identification of U.S. merchandise returned for repair and reexport.—Import entries covering U.S. merchandise imported temporarily for repair or alteration and reexport are required to show the following statement: "Imported for Repair and Reexport."

Sec. 30.83 Statistical copy of mail and informal entries.—A legible copy of all mail and informal entries is required for statistical purposes. In addition to the information required to be shown for Customs purposes, the value is also required to be shown for all merchandise including that not subject to duty.

Subpart G—General Administrative Provisions

Sec. 30.90 Confidential information, import entries and withdrawals.—The contents of the statistical copies of import entries and withdrawals on file with the Bureau of the Census are treated as confidential and will not be released without authorization by the U.S. Customs Service, in accordance with the policy set forth in 19 C.F.R. 103.4 (Customs Regulations) relating to the copies on file in Customs offices.

Sec. 30.91 Confidential information, Shipper's Export Declarations.—(a) *Confidential status.* The Shipper's Export Declaration is an official Department of Commerce form, prescribed jointly by the Bureau of the Census and the Bureau of East-West Trade. Information supplied thereon is confidential, for use solely for official purposes authorized by the Secretary of Commerce. Use for unauthorized purposes is not permitted. Information on Shipper's Export Declarations may not be disclosed to anyone except the exporter or his agent by those having possession of or access to any copy for official purposes, except as provided in paragraph (e) of this section.

(b) *Copying of information to manifests not permitted.* Since certain types of information from the outward manifests of ocean carriers can be made public under the provisions of the Customs Regulations, carriers are not permitted to copy information to manifests (or to bills of lading used in lieu of a listing of cargo on a manifest) from Shipper's Export Declarations in their possession for official purposes, except for (1) the bill of lading number on the declaration, (2) information on the declaration which is identical with bills of lading or other sources of information available to the carrier, and (3) items of information which are required by Export Administration Regulations to be identical or consistent on both documents.

(c) *Supplying of copies by exporters for unofficial purposes not permitted.* The regulations in this part spell out precise definitions to be followed in reporting information on Shipper's Export Declarations. Strict adherence to these definitions is necessary if the official purposes for which the forms are required are to be effectively accomplished. Because of the possibility that for other purposes different definitions would be appropriate, the supplying by exporters of any copies (or of the information from copies) for any unofficial purpose is considered detrimental to official objectives and is not permitted.

(d) *Limitations on issuance and reproduction of copies.* Consistent with the policy stated in paragraph (c) of this section, and with the confidential status of the document generally, the following limitations are placed upon the issuance of copies to exporters or their agents:

(1) A copy of a Shipper's Export Declaration may be supplied to exporters or their agents only when such a copy is needed by the exporter to comply with: (i) official requirements for presentation of a copy to the exporting carrier as authorization for export, (ii) export control requirements, or (iii) U.S. Department of Agriculture requirements for proof of export in connection with subsidy payments. Copies issued to exporters or their agents under subdivisions (ii) or (iii) of this subparagraph will be stamped as follows by the Customs Director:

> Certified pursuant to the Export Administration Regulations or to fulfill the requirements of a Federal AGency and not for any other purpose. May not be reproduced in any form.

(2) Use of copies of the Shipper's Export Declaration in connection with claims for exemption from internal revenue taxes or state taxes is not permitted.

(e) *Determination by the Secretary of Commerce.* When the Secretary of Commerce determines that the withholding of information provided by an individual Shipper's Export Declaration is contrary to the national interest, he may make such information available, taking such safeguards and precautions to limit dissemination as he deems appropriate under the circumstances. In recommendations regarding such actions, the Bureau of the Census will, in general, consider that it is not contrary to the national interest to withhold information on Shipper's Export Declaration from private individuals or business (except the exporter or his agent) or from state or local government agencies or officials, regardless of the purposes for which the information may be requested. In recommendations regarding any other requests for access to official copies, a judgment in the light of circumstances will be made as to whether it is contrary to the national interest to withhold the information, keeping in view that the maintenance of confidentiality has itself an important element of national interest.

Sec. 30.92 Statistical classification schedule.—The following statistical classification schedules referred to in the regulations in this part are hereby incorporated by reference. Information as to where copies may be obtained is indicated. Copies are available for public inspection at the offices of local Customs Directors and Department of Commerce District Offices.

TSUSA—Tariff Schedules of the United States Annotated for Statistical Reporting, as currently revised, shows the 7-digit statistical reporting number to be used in preparing import entries and withdrawal forms. TSUSA may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, local Customs Directors, or Department of Commerce District Offices located in principal cities. Purchase price includes the basic schedule plus revisions as currently issued for an indefinite period.

Schedule B—Statistical Classification of Domestic and Foreign Commodities Exported from the United States, as currently revised, shows the detailed commodity classification requirements and 7-digit statistical reporting numbers to be used in preparing Shipper's Export Declarations, as required by these regulations. Schedule B may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, local Customs Directors, or Department of Commerce District Offices located in principal cities. Purchase price includes the basic schedules and supplements issued irregularly, covering revisions in the schedule for an indefinite period.

Schedule C—Classification of Country Designations For U.S. Foreign Trade Statistics. Free from the Bureau of the Census, Washington, D.C. 20233.

Schedule D—Classification of Customs Districts and Ports. Free from the Bureau of the Census, Washington, D.C. 20233.

Schedule P—Commodity Classification for Reporting Shipments from Puerto Rico to the United States. Free from the Bureau of the Census, Washington, D.C. 20233.

Sec. 30.93 Emergency exceptions.—In individual cases of emergency, where strict enforcement of the regulations in this part would create undue hardship, the Foreign Trade Division of the Bureau of the Census, with the concurrence of the Office of Export Administration in cases where export control requirements are also involved, may authorize such postponements of or exceptions to the requirements of the regulations in this part as are warranted by the circumstances and not inconsistent with the aims of this chapter.

Sec. 30.94 Instructions to Customs.—Instructions of a continuing nature to Customs with respect to the forwarding of statistical copies of forms and the preparation of special statistical reports not involving requirements upon the public will not be included in the regulations in this part, but will, instead be transmitted to Customs through appropriate administrative channels.

Sec. 30.95 Penalties for violations.—Any person who violates any provisions of this part, except for violations of the provisions relating to delayed filing of documents under bond as provided by section 30.24, shall be liable to the United States in civil penalty not exceeding $1,000 for each violation, as authorized by section 305 of chapter 9 of title 13 of the United States Code.

XX. EXPORT CONTROL REGULATIONS

Export control regulations of the Bureau of International Commerce will be found in the "Comprehensive Export Schedule". Additional instructions and information is published in "Supplementary Instructions for district directors of Customs". A "Commodity Identification Manual" is also available to assist in identifying merchandise subject to physical examination. The export control regulations are also contained in Chapter III, Title 15, Code of Federal Regulations. Part 386, stating the general export clearance requirements, is of most interest to Customs officers, and reads as follows:

Sec. 386.1 General export clearance requirements.—(a) *Responsibility of licensee and agent.* Under the Export Control Regulations, the exporter to whom a validated license is issued or who undertakes to export under a general license is legally responsible for the proper use of that license and for the due performance of all its terms and provisions. This responsibility continues even when he acts through a freight *forwarder* or other forwarding agent.

(b) *Exports by mail*—(1) *Validated license shipments.* No export under a validated license may be made by mail, including surface and air parcel post, until the sender (exporter) has entered the complete validated license number on the address side of the parcel and on a duly executed Shipper's Export Declaration covering the commodity to be mailed, whether or not a declaration is required by the United States Customs Service.[1]

(2) *General license shipments and shipments without an export license*—(i) *Declaration required.* Unless otherwise set forth specifically by the Export Control Regulations or by the Bureau of Census Foreign Trade Statistics Regulations (see Subpart D), the sender shall present to the post office at the place of mailing, a duly executed Declaration for each shipment to any destination under a general license (or to Canada or any other destination for which an export license is not required), from one business concern to another business concern when the shipment consists of a commodity(ies) valued at more than $250. A declaration is not required for noncommercial shipments.

(ii) *Designation on declaration and parcel.* The sender shall enter on the declaration the symbol of the applicable general license. Regardless of whether a declaration is required, the general license symbol shall also be written on the address side of the parcel followed by the phrase "Export License Not Required." No notation need be made on the package if the export is made under General License GTDA or GTDR. In addition, for a gift parcel exported under General License GIFT, the word "GIFT" shall be entered on the Customs declaration tag. The general license symbol and phrase constitute a certification by the sender to the post office and to the Office of Export Control that the shipment is made under the authority of the general license indicated.

(c) *Exports by means other than mail*—(1) *Presentation of declaration.* Except as provided in subparagraph (2) of this paragraph, the exporter or his agent must present a duly executed Shipper's Export Declaration to the exporting carrier before the vessel, aircraft, or overland transport departs. The exporting carrier is responsible for the completeness and accuracy of the information on the declaration regarding the name of the exporting carrier (and flag for shipments by vessel), foreign port of unloading, and bill of lading or air waybill number. If the carrier is required to file a cargo manifest with the United States Customs Service, the declaration shall be submitted with the manifest. If the carrier is not required to file a cargo manifest with the United States Customs Service, the declaration must be submitted before the carrier departs.

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[1] Shipper's Export Declaration, Form 7525-V, may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, local customs offices, and U.S. Department of Commerce Field Offices (see list on page 1 under Field Office *Addresses*). Price of the form is $1 for a pad of 100.

(2) *Exceptions.* A declaration is not required for:

(i) Any shipment, other than a shipment made under a validated export license, to *Country* Group T, V, or X if the shipment is valued at $250 or less. (As used here "shipment" means all commodities classified under a single seven-digit Schedule B Number, shipped on the same carrier, from one exporter to one importer.);

(ii) Any shipment reported under the provisions of the Monthly Rep Procedure (section 386.3(r)) or

(iii) Any shipment made under any other exception provided elsewhere in this part or in Part 371 of this chapter. (A complete list of such exceptions is set forth in Subpart D of the Census Bureau Foreign Trade Statistics Regulations.)

(3) *Exports not requiring a license.* Unless otherwise set forth in the Export Control Regulations or in the Bureau of the Census Foreign Trade Statistics Regulations (see Subpart D), a declaration is required for exports to Canada or to any other destination not requiring either a validated or a general license.

Sec. 386.2 Use of a validated license.[2]—(a) *License valid for shipment from any port.* A license may authorize exports from the United States from any port of export, or port of origin. Commodities or technical data which leave the United States at one port, cross adjacent foreign territory, and reenter the United States at another port before final export to a foreign country will be treated as an export from the last U.S. port of export.

(b) *Shipments against expiring license*—(1) *Commodities ready for loading or laden.* (i) Commodities which are (a) laden aboard the exporting carrier, or (b) ready for lading and located on a pier for lading, and not for storage, prior to midnight of the expiration date of a license, may depart with the vessel even though the vessel does not clear until after the expiration date of the license.

(ii) Further, where the vessel is expected to be available at the pier for loading before the license expires, but exceptional and unforeseen circumstances delay it, the commodities may be exported without an extension of the license, if in the judgment of the customs office undue hardship would otherwise result.

(2) *Other shipments.* A shipment not coming within the above provisions may not be exported against an expiring license, unless the license is extended by the Office of Export Control.

(c) *Reshipment of undelivered shipments.* A shipment cleared under a validated export license may not be received by the ultimate consignee because the exporting carrier failed to deliver it. In such cases, the same, or an identical commodity, in the quantity or value shipped may be exported under the same license to the same consignee and destination, if satisfactory evidence of the original export and of the failure to deliver the shipment, together with a satisfactory explanation of the delivery failure, is submitted to the Office of Export Control. If a commodity is to be reexported to any person other than the original consignee, the shipment is deemed to be a new export and is subject to all current Export Control Regulations regarding the specific commodity and destination.

(d) *Records of validated license shipments*—(1) *Entries on reverse side of license.* The exporter or his agent shall maintain complete records of all shipments made against each validated license by recording each shipment on the reverse side of the license document in accordance with the following instructions:

(i) *Quantity.* Enter total quantity shipped in units shown on the license, including any amounts shipped under the tolerance provisions of section 386.7;

(ii) *Description.* Enter Export Control Commodity Number (including the italicized digit(s) in parentheses) and an abbreviated description of the commodity as shown on the license. Where the license covers two or more commodities, indicate clearly which commodity(ies) is being shipped;

(iii) *Value.* Enter total value of the commodities (selling price, or cost if not sold, including inland freight, insurance, and other costs to U.S. port of export, to the nearest whole dollar);

(iv) *Name of exporting carrier.* Enter name of vessel or airline on which shipment is exported. If other type of transportation is used, specify; e.g., truck, ferry, rail;

(v) *Port of export or post office of mailing.* Enter name of the port from which the shipment leaves the United States or the post office where the shipment is mailed;

(vi) *Date.* Enter date the shipment leaves the United States (if exact date not known, enter approximate date); and

(vii) *Customs officer or postmaster.* Enter the initials of the person recording the shipment data.

(2) *Export clearance continuation sheet.* If the reverse side of the export license is filled before shipments are completed, other shipments shall be recorded on a continuation sheet conforming to the format of the license. Continuation sheets shall be affixed to the license and numbered consecutively, and the export license number shall be entered on the top of each sheet. Continuation sheets become part of the license and shall be returned with the license to the Office of Export Control.

(3) *Periodic Requirements (PRL) License.* Shipments under a periodic requirements license shall be recorded in accordance with the terms of the license. For example, if the license breaks down the quantity and/or value by Export Control Commodity Number, records shall be kept according to Export Control Commodity Number. If the consignee list shows quantities or values for individual consignees, shipments shall be recorded accordingly. In the absence of any of these breakdowns, shipment data shall be recorded as provided in subparagraph (1) of this paragraph.

(4) *Return of licenses.* When the full quantity autho-

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[2] Provisions relating to the export clearance of technical data under a validated license are set forth in section 379.6 of this chapter.

rized for export under a validated license has been exported, or when it is otherwise determined that the license will not be further used, the license shall be forwarded promptly to the Office of Export Control (Attention: 854) U.S. Department of Commerce, Washington, D.C. 20230. Until forwarded, these licenses as well as all other export records shall be made available for inspection by the U.S. Government promptly upon demand.

Sec. 386.3 Shipper's export declaration.—(a) *Presentation requirement.* All copies of Shipper's Export Declarations that are required to be presented to a customs office shall be presented at the port of export.

(b) *Declaration as export control document.* Under the Export Control Regulations a Shipper's Export Declaration is a statement declaring the existence of a validated export license or permission for an export under an applicable general license. Such document may be used only by the exporter or his duly authorized forwarding agent for the purpose of exporting, facilitating, or effecting the export of a commodity(ies) requiring a validated or general license under the Export Control Regulations issued pursuant to the Export Administration Act.

(c) *Limitation of effective period of declaration.* No declaration shall be used to export, or facilitate or effect an export, after the expiration of the applicable validated license or after the termination of the applicable general license, except as provided in sections 372.9(d) of this chapter and 386.2(b). The validity period of an export license includes any extension provided by any saving clause or regulation.

(d) *Who may submit declaration.* A declaration may be submitted to the customs office only by the exporter or his carrier or the duly authorized forwarding agent of the exporter. A carrier, not otherwise acting as a forwarding agent, may deliver an executed declaration to the customs office without specific authorization from the exporter.

(e) *Forwarding agent*—(1) *Definition of "forwarding agent."* For the purpose of this part, a "forwarding agent" means a person authorized by an exporter to perform for the exporter actual services which facilitate the export of the commodities or technical data described in the declaration. These services include, but are not limited to, preparing the declaration and clearing the shipment by submission of documents to the customs officers or export control officers. A "forwarding agent" need not be a person regularly engaged in the freight forwarding business. A "forwarding agent" shall be designated by the exporter in writing in the power of attorney set forth on the declaration or in a general power of attorney, or other written form, subscribed and sworn to by a duly authorized officer or employee of the exporter.

(2) *Forwarding agent as true agent.* Unless the exporter states otherwise in the power of attorney or other written form, the forwarding agent named by the exporter shall be deemed the true agent of the exporter for export control and customs purposes. However, the power of attorney or other authorization designating a forwarding agent does not make such agent the sole and exclusive forwarding agent of the exporter for all exports. Where a forwarding agent is suggested by the foreign buyer in a transaction (rather than by the seller in the United States) a form of designation on the declaration which limits the authority granted to the particular transaction involved would be appropriate. The seller may, however, insist that the agent for the foreign buyer apply for the license. (See section 372.3(b)(1) of this chapter.)

(3) *Form of powers of attorney.* The sample form "Power-of-Attorney—Designation of Forwarding Agent" (see Supplement S-17 for facsimile) fixes responsibility of the exporter for exports made through a forwarding agent. This suggested form conforms to usual business practice in establishing agency relationship, but its use is not mandatory. The exporter may use any written form of designation, provided it is subscribed and sworn to by a duly authorized officer or employee of the exporter, before a notary public, or other person authorized to administer oaths. Such authorization shall clearly indicate that the party named is authorized to represent the exporter for export control and customs purposes. The extent of the authority, as in the power of attorney, may be restricted with respect to time, country, commodity, specific license, or other matter. Such documents may also be used to designate one or more employees, or other persons, such as an export manager or agent, to in turn appoint as many forwarding agents as may be required.

(4) *Redelegation of agent's authority.* If a forwarding agent signs and swears to a declaration for clearance of an export through a port where he has no office, he shall furnish an authorization in writing to the person who will actually present the declaration to the customs office. He may also redelegate to another forwarding agent his authority to sign, swear to, and present declarations at such port: *Provided,* That the authorization from the exporter permits such redelegation or he obtains other written evidence of consent from the exporter. Proof of the authority of any person signing a power of attorney, or other authorization may be required. In general, however, such proof will be required only when there is some reason to doubt the authority of the person involved.

(5) *Record and proof of agent's authority.* The power of attorney or other authorization from the exporter shall be retained on file in the forwarding agent's office while the authorization is in force and for a period of 2 years after the last action taken by the forwarding agent under the authority. During this retention period, the forwarding agent shall make his delegation of authority from the exporter available for inspection on demand, in accordance with the provisions of section 387.11(f) of this chapter. This recordkeeping and inspection requirement also applies to any redelegation of the forwarding agent's authority and to any person to whom the forwarding agent redelegates his authority. (For further recordkeeping requirements see section 387.11 of this chapter.)

(f) *Number of copies required.* When a declaration is required, it shall be presented to the customs office at the port of export, or to the postmaster at the post office from which the shipment is mailed, in the number of copies specified below.

(1) *Exports by means other than mail.* Two copies of the declaration are required by the customs office at the port of export, except (i) only one copy is required for shipments to Canada and shipments between the United States and its territories and possessions, or (ii) an addi-

tional copy may be required by subparagraph (3) of this paragraph.

(2) *Mail shipments*—(i) *General.* For a mail shipment, one copy of the declaration shall be presented to the postmaster at the place of mailing when the shipment: (a) Is under a validated license, or (b) is of a commercial nature and its value is more than $250. Two copies shall be presented when an additional copy is required by subparagraph (3) of this paragraph.

(ii) *Partial shipment against a validated license.* In addition, when making a partial shipment by mail against a license, the sender (exporter) shall present to the postmaster a declaration.

(3) *Additional copies of declaration.* For export control purposes, the Office of Export Control, the customs office, or the postmaster may require additional copies of the declaration for exports under a validated license that contain special requirements for additional documents or information. (See paragraph (o) of this section.)

(g) *Statements on declaration.* Where a declaration is presented to a customs office or postmaster, the exporter represents that:

(1) All statements and information in the declaration have been furnished by him or on his behalf for the purpose of effecting an export under the Export Control Regulations;

(2) Export of the commodity(ies) described in the declaration is authorized under the general or validated export license therein identified;

(3) Statements contained in the declaration are identical in all respects with the contents of the validated license or the terms, provisions, and conditions of the applicable general license; and

(4) All other terms, provisions, and conditions of the Export Control Regulations applicable to the export have been met.

(h) *Separate declarations required for general license and validated license commodities in same shipment*—(1) *General.* Separate declarations are required for general license commodities and validated license commodities in the same shipment. They may not be combined on one declaration. However, a shipment made under two or more general licenses or two or more validated licenses may be combined on the same declaration.

(2) *Exception.* For a shipment consisting of commodities and the containers therefor, where either the commodities only, or the containers only, require a validated license, both the commodities and the containers shall be entered on the same declaration.

(i) *Schedule B number and commodity description*—(1) *Schedule B number.* The seven-digit Schedule B number, as shown in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, shall be entered in the designated column of the declaration regardless of whether the shipment is moving under a validated or general license.

(2) *Commodity description for validated license shipment*—(i) *General.* The commodity description on the declaration for a shipment under a validated license shall be that shown on the related validated license. However, where part of the description on the license is underlined, only the underlined portions need be included on the declaration. The commodity description on the license will be stated in Commodity Control List terms, which may be inadequate to meet Census Bureau requirements. In this event, the commodity description on the declaration shall give enough additional detail to permit verification of the Schedule B number (e.g., size, material, or degree of fabrication).

(ii) *Distinguishing characteristics or specifications.* If a commodity classification in Schedule B has instructions such as "specify by name," "state species," etc., that information shall be furnished in the column of the declaration provided for the commodity description. When a single Shipper's Export Declaration covers more than one item classifiable under a single classification carrying the "specify by name" or similar requirement, each item shall be entered separately in this column. However, if more than five items are involved, all classifiable under one Schedule B number, only the five items of greatest value in the classification need be shown separately. Separate quantities, values, and shipping weights for individual items are not required in either case.

(3) *Commodity description for general license shipments.* The commodity description on the declaration for a shipment under a general license shall be in sufficient detail to permit verification of the seven-digit Schedule B number entered on the declaration.

(j) *Validated license number or general license designation*—(1) *Exports under a validated license.* The license number, as well as the commodity description, shall be shown in the commodity description column of a declaration covering an export under a validated license. In addition, the italicized digit(s) in parentheses at the end of the Export Control Commodity Number shall be added directly below the Schedule B Number.

(2) *Exports under a general license.* In addition to the commodity description, the general license designation shall be shown in the commodity description column of each declaration covering a shipment under a general license. If the commodity is to be exported under the provisions of General License GLV, the parenthetical digit shall also be shown immediately below the Schedule B Number.

(k) *Optional ports of unlading*—(1) *Applicability.* If, prior to the departure of the exporting carrier, the exporter does not know at what port the shipment will be unloaded, he may designate optional ports of unlading on the declaration and bill of lading or air waybill in accordance with this paragraph. In no case does this procedure apply to any shipment destined directly or indirectly to Country Group S, X, Y, or Z. (For shipments to other destinations via Hong Kong, see section 370.8 of this chapter.)

(2) *General license shipments.* (i) For exports under General License G-DEST, if the exporter does not know which of several countries in Country Groups T, V, and W is the country of ultimate destination, he may name optional ports of unlading in one or more of these countries.

(ii) When an export under any general license is shipped in transit through a country other than the country of ultimate destination, the exporter may designate optional ports of unlading in one or more countries, together with the name and address of the intermediate consignee in each country designated.

(iii) Optional ports of unlading, in all cases, shall be in a country to which the commodity or technical data may be shipped directly from the United States under the same or another applicable general license.

(3) *Validated license shipments.* For exports under a validated license, optional ports of unlading are restricted to the country of ultimate destination, unless the export license or amendment designates intermediate consignees in one or more other countries. In the latter case, the optional ports of unlading must be designated as optional intransit points on the declaration and bill of lading or air waybill.

(4) *Correcting the declaration.* As soon as the exporter learns at which port the commodities are to be unloaded—whether in the country of ultimate destination or in a country of transit—an Export Declaration Correction Form, Form FT-7403, should be filed with the customs office at the port of export where the original declaration was filed. The correction form shall specify the actual port of unlading and the name and address of the intermediate consignee, if any, to whom delivery is made. An intermediate consignee must be specified if the port of unlading is located in a country other than the country of ultimate destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee should be given. (See paragraph (q) of this section for procedure to file a Form FT-7403.)

(l) *Foreign excess property disposed of by the U.S. Government.* Where a shipment consists of commodities disposed of by U.S. Government agencies under foreign excess property disposal programs, the declaration shall show the following certification in the commodity description space:

These commodities are foreign excess property disposed of by the U.S. Government.

(m) *Signature on declaration.* The signature on the declaration of the person making the declaration shall be that of the exporter or the forwarding agent named in the declaration, or a duly authorized officer or employee of either. In general, it will be deemed that the requisite authority rests with employees who, by their official titles, are apparently vested with power to deal with exports; such as export managers or such corporate officers as the president, vice president, treasurer, and secretary of a corporation, any partner of a partnership, and any responsible head of any other form of private or quasi-governmental organization, and assistance officers. The signature of such person, whether or not that of the exporter or employee, constitutes a representation by the exporter that all statements and information in the declaration are true and correct. In addition, if the signature is that of the forwarding agent, or his duly authorized officer or employee, such signature constitutes a like representation by the forwarding agent.

(n) *Attachment to declaration.* Additional copies of the declaration or copies of the continuation sheet form may be used where more space is required. In such cases, only one declaration form need be signed. The additional sheets shall be numbered in sequence and securely attached to the executed declaration form; and the following statement shall be inserted between the column provided for marks and numbers of the shipment and the column provided for its value:

This declaration consists of this sheet and ________ continuation sheets.

No portion of any form attached as a continuation sheet shall be torn off or removed.

(o) *Special requirements for additional information and documents.* (1) A validated license may bear on its face a requirement for specified documents (or information) in addition to that furnished when the application was filed. The licensee shall furnish these to the Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230, as follows:

(i) Prepare one copy of the declaration in addition to the number of copies otherwise required.

(ii) Enter the required additional information in the space between the column provided for marks and numbers of the shipment and the column provided for its value on all copies of the declaration.

(iii) Unless otherwise specified on the license, attach the required documents (either original or certified copy) to the extra copy of the declaration.

(2) All such statements and documents will be deemed to constitute representations of material facts within the purview of the regulations prohibiting the making of false representations to the Office of Export Control in any export control matter (see section 387.5(b) of this chapter).

(p) *Declaration for shipments moving in transit*—(1) *Applicability.* The Shipper's Export Declaration for In-transit Goods, Commerce Form 7513,[3] should be used for the following types of transactions:

(i) Commodities shipped by vessel in transit through the United States from one foreign country or area to another, including merchandise destined from one foreign country to another and transshipped in U.S. ports; or

(ii) Foreign merchandise exported from a General Order Warehouse or a Foreign Trade Zone (unless, in the case of a Foreign Trade Zone, the customs office specifically permits the use of the Shipper's Export Declaration, Commerce Form 7525-V[3]).

Shipments in bond transiting the United States by means of any carrier other than a vessel may be cleared for export without presenting a Form 7513, unless a validated license is required for the export.

(2) *Additional information.* The following additional information shall be entered on a Shipper's Export Declaration for In-transit Goods:

(i) The name and address of the intermediate consignee in a foreign destination, if any, shall be shown below the description of the commodities;

(ii) Underneath the name and address of the intermediate consignee, one of the following statements shall be made, whichever is appropriate:

(a) For intransit shipments of foreign-origin merchandise (for definition of "foreign origin," see section 371.4(a) of this chapter):

The mechandise described herein is of foreign origin.

(b) For intransit shipments of domestic (U.S.) merchandise:

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[3] Forms 7525-V and 7513 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, and from local customs offices. Form 7525-V may also be obtained from U.S. Department of Commerce Field Offices (see list on page i under Field Office Addresses).

> The merchandise described herein is of the growth, production, or manufacture of the United States.

(c) For intransit shipments of commodities of U.S. origin excepted under section 371.4(a)(2) of this chapter:

> The merchandise described herein is of the growth, production, or manufacture of the United States, but comes within the exception granted by section 371.4(a)(2) of this chapter of the Export Control Regulations.

(iii) The commodities shall be described in terms of Schedule B, including the appropriate Schedule B number.

(q) *Change, alteration and amendment of declaration.* The declaration should not show evidence of change, alteration, or amendment, but shall be a clean copy. However, the exporter's duly authorized forwarding agent or the carrier shall insert or correct on declarations, required items of information peculiarly within his knowledge: U.S. port of export, method of transportation, exporting carrier, foreign port of unloading, pier or airport, and bill of lading or air waybill number. The forwarding agent or carrier making the insertion or correction must specifically identify the same in writing on the face of the declaration. Nothing herein shall relieve such forwarding agent or carrier from liability for any misrepresentation of facts inserted or corrected.

(r) *Summary monthly reports in lieu of individual Shipper's Export Declarations*—(1) *Scope.* An alternate procedure for reporting exports to Canada and to Country Groups Q, T, V, W, X, and Y is established under which qualified exporters may be authorized to file at the end of each month typewritten or handwritten Shipper's Summary Export Declarations (Form 7525-M), or computer tapes compatible with equipment of the Bureau of the Census, punched cards, etc., in lieu of individual Shipper's Export Declarations. Details of the procedure are set forth in section 30.39 of the Foreign Trade Statistics Regulations of the Bureau of the Census of this title. Exporters interested in the procedure should consult section 30.39 of this title to ascertain qualifications, how to apply for the privilege of participating, how to file a monthly report after approval is given, and other pertinent facts. This paragraph contains only basic information about the procedure and specific requirements relating exclusively to export controls.

(2) *Certification required in application.* A request for the privilege of participating should be forwarded to the Foreign Trade Division, Bureau of the Census, Washington, D.C. 20230, with a copy to the Office of Export Control (Attention: 852), Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230. It shall include a certification by the exporter as follows:

> I (We) certify that I (We) have established adequate internal procedures and safeguards to assure compliance with the requirements set forth in the U.S. Department of Commerce Export Control Regulation and Foreign Trade Statistics Regulations. Among other things, these procedures and safeguards assure:
>
> (i) A proper determination as to whether a validated license is required for a particular export;
>
> (ii) Actual receipt of the validated license, if required, before the shipment is exported;
>
> (iii) Compliance with all the terms of the validated license or general license, as applicable;
>
> (iv) Return of validated licenses to the Office of Export Control, as provided in subparagraph (7) of this paragraph;
>
> (v) Compliance with the destination control statement provisions of sections 386.5 and 386.6;
>
> (vi) Compliance with the prohibition against export transactions that involve parties who have been denied U.S. export privileges; and
>
> (vii) Compliance with the recordkeeping requirements of section 387.11 of this chapter; and, in addition, I (We) agree that my (our) office records will be made available for inspection by the Bureau of the Census, the Office of Export Control, or the Bureau of Customs, upon request, to verify that a given shipment was properly included in a particular monthly report.

(3) *Exporter's agent.* Where the exporter intends to authorize a forwarding agent to file monthly reports on his behalf, the exporter's request shall include the name and address of each such forwarding agent.

(4) *Authorization by Census to use monthly reporting procedure.* Authorization to file monthly reports in lieu of individual declarations under this procedure will be granted by the Bureau of the Census with the concurrence of the Office of Export Control.

(5) *Validated license.* Persons or firms authorized to file monthly reports in lieu of individual declarations shall sign the license on the reverse side, as provided in section 386.2(d), fill in the information required by subparagraph (6) of this paragraph, and hold it until time to return it to the Office of Export Control as required by subparagraph (7) of this paragraph.

(6) *Recording shipment on the reverse side of Export License (Form FC-628).* The licensee or his forwarding agent shall record each shipment on the reversed side of the Export License (see Supplement S-3, page 2, for facsimile), as explained in section 386.2(d), and include a statement that shipments were made under the "Monthly Shipper's Export Declaration procedure."

(7) *Return of licenses.* Validated export licenses shall be returned to the Office of Export Control promptly after shipment is completed, when no further shipments are to be made, or when the license has been revoked or canceled, or has expired.

(8) *Export clearance*—(i) *Destination control statement.* In addition to his responsibility for assuring that the proper destination control statement is placed on the commercial invoice as required by section 386.6, the exporter or his forwarding agent is responsible for assuring that the carrier places the proper destination control statement on the related bill of lading or air waybill.

(ii) *Detention and examination.* Shipments being reported under this procedure are subject to detention and examination, as provided in section 386.8, whenever the customs office or postmaster deems such action necessary to assure compliance with the Export Control Regulations.

(9) *Revocation of authorization.* An authorization to file monthly reports in lieu of individual declarations, granted under section 30.39 of the Foreign Trade Statistics Regulations of this title and this paragraph, may be revoked, suspended, or revised at any time.

(10) *Effect of other provisions.* Insofar as consistent with the provisions of this paragraph that relate specifically to filing monthly reports in lieu of individual declarations, the other provisions of this part shall apply to exports reported under this procedure.

Sec. 386.4 Conformity of documents for validated license shipments.—(a) *Applicability.* The following rules of conformity apply to any shipment under a validated export license, except those under a consolidated "master" air waybill (other than airmail or air parcel post). However, these rules do apply to any individual air waybill issued by a consolidator (indirect carrier) for an export included in a consolidated shipment and to any air waybill issued by a carrier or other person covering an export not included in a consolidated shipment.

(b) *Rules of conformity*—(1) *General.* The validated export license, the declaration, and the outbound bill of lading (including a railroad through bill of lading) covering the same export shipment must be consistent with one another. The bill of lading, whether in negotiable or nonnegotiable form, is not consistent if:

(i) It does not provide for delivery of the shipment (cargo) at a port located in the country of either the ultimate or intermediate consignee named in the declaration.

(ii) It contains any indication that the shipment is in transit to a country of ultimate destination different from that named in the declaration, if there is reason to believe that the shipment is not for consumption in the country of ultimate destination. For example, it would be inconsistent to consign such a shipment to the ultimate destination with a qualifying phrase indicating the shipment is "in transit" at that destination, or to consign the shipment to a free zone or free port.

(iii) It names as shipper any person other than the licensee or his duly authorized forwarding agent. Where shipments from more than one licensee are consolidated on a single bill of lading, the shipper named on the bill of lading must also appear as the authorized forwarding agent for each exporter on each declaration.

(iv) The name and address of the ultimate consignee are not shown either in the space provided for "consignee" or in the body of the bill of lading under the caption "ultimate consignee and notify party" or, in the case of the air waybill, under the caption "also notify." However, where shipments to more than one ultimate consignee are consolidated on one bill of lading and not all are shown in the body of the bill of lading, the name of the intermediate consignee (customs broker or consolidator's agent in the foreign country) who will receive and distribute the commodities to the ultimate consignees must appear on the bill of lading, the validated license(s), and the declaration(s). Where the name of the intermediate consignee in such a consolidated shipment differs from that shown on each validated license or does not appear on each license, an amendment of the license(s) is necessary even though the intermediate consignee is in the same country as the ultimate consignees.

(2) *Negotiable bill of lading.* For a negotiable bill of lading ("order" bill of lading), the bill of lading is deemed consistent only if the consignee or order party named therein is also named in the declaration. An "order" bill of lading may consign the commodities or technical data covered thereby to the order of the shipper, to the order of an intermediate consignee (whether bank, foreign freight forwarder, or other intermediary), or to the order of the purchaser (if not the same as the ultimate consignee). An "order" bill of lading issued in any of these forms constitutes a representation by the shipper that (i) the commodities or technical data covered by the validated license, declaration, and bill of lading are ultimately destined to such ultimate consignee; (ii) the document has not been used for the purpose of evading the terms and conditions of the validated license; and (iii) pursuant to the contract of carriage, the commodities or technical data will be delivered at a port located in the country of the ultimate consignee or of the intermediate consignee named in the declaration.

(3) *Commodity description.* On a bill of lading the commodities or technical data may be described in terms of the freight tariff classification or other type of classification, but may not be inconsistent with the description shown in the declaration and validated export license. On the declaration the commodity description shall include the same commodity description as shown on the related validated license, and, in addition, it shall include more detailed information where required by the Census Bureau.

(4) *Commodity numbers.* The one-to-five digit Export Control Commodity Number shown on the export license shall be the same as the initial digits of the seven-digit Schedule B number entered on the declaration.

(5) *Carrier's manifest.* If the carrier's outward foreign manifest filed with the U.S. customs office contains the names of shippers or consignees, these names must not be inconsistent with the names shown on the bill of lading or the declaration.

(c) *Compliance.* No carrier shall issue, and no licensee, shipper, consignor, exporter, or consignee, or their agents, or any other person, shall prepare or procure a bill of lading that is contrary to the provisions of this section. Customs offices are authorized to require any document or to use any other appropriate methods to insure compliance with these provisions.

Sec. 386.5 General destination control requirements.—(a) *Applicability to validated license shipments.* The following provisions apply to all shipments under a validated license:

(1) *Destination on bill of lading or air waybill.* No carrier (nor any other person on behalf of any carrier) shall issue a bill of lading or air waybill providing for delivery of cargo at any foreign port not in the country of (i) the ultimate consignee, or (ii) the intermediate consignee, named in the Shipper's Export Declaration.

(2) *Delivery of cargo.* No carrier shall deliver cargo to any other country at the request or option of the shipper, consignor, exporter, purchaser, or ultimate consignee, or their agents, or any other person having custody or control of the shipment, without prior written authorization from the Office of Export Control to the carrier or its agent.

(3) *Diversion.* No shipper, consignor, exporter, purchaser, or ultimate consignee, or their agents, or any other person, shall, without prior written authorization from the Office of Export Control to the carrier or its agent:

(i) Divert any cargo to any country of ultimate destination other than that named in the declaration or in the bill of lading or air waybill as described in section 386.6; or

(ii) Request or demand that any carrier or its agent divert cargo from the country of ultimate destination named in any such document. In addition, no agent of any carrier shall instruct or authorize the master of the vessel to divert any cargo to any other country of ultimate destination without prior written authorization from the Office of Export Control.

(4) *Optional ports on bill of lading or air waybill.* No carrier shall issue a bill of lading or air waybill providing for delivery of cargo to the ultimate consignee named in the declaration at optional ports, where one of such optional ports is not in the country of ultimate destination named on the license or declaration, without prior written authorization from the Office of Export Control. However, where the declaration provides for delivery of cargo to optional intermediate consignees located in ports in different countries, the carrier may issue a bill of lading or air waybill providing for delivery at such optional ports.

(b) *Unloading of cargo at a Port in other than intermediate or ultimate country of destination*—(1) *Reasons beyond carrier's control.* Nothing contained in the Export Control Regulations shall be deemed to prohibit a carrier from unloading cargo at a port outside the intermediate or ultimate country of destination shown on the declaration where, for reasons beyond the control of the carrier (as set forth in the standard provisions of the carrier's bill of lading or air waybill, such as act of God, perils of the sea, damage to the carrier, strikes, war, political disturbances, or insurrections), it is not feasible to deliver the cargo at the licensed port of destination.

(2) *Required actions for unscheduled loading.* Whenever cargo is unloaded at a port in any country other than the intermediate or ultimate destination shown on the declaration, except where the cargo may be exported under a general license directly from the United States to such country:

(i) The carrier shall, within 10 days after the date of unloading, report the facts to the nearest American Consul and to the agent of the carrier located in the United States. Within 10 days after receipt of such report, the agent shall send a copy of the report to the Office of Export Control. This report shall consist of (a) a copy of the manifest of such diverted cargo, (b) a statement of the place of unloading, and (c) the name and address of the person in whose custody the commodities or technical data were delivered.

(ii) The exporter of such cargo shall, within 10 days of receiving notice of such diversion from the Office of Export Control notify the Office of Export Control of the proposed disposition of the commodities or technical data.

(iii) No person, including the exporter, licensee, consignee, carrier, or any person acting on the carrier's behalf, shall take any steps to effect delivery or entry of the commodities or technical data into the commerce of the country where unloaded without prior approval of the Office of Export Control. The carrier shall take steps to assure that such commodities or technical data are placed in custody under the bond or other guaranty not to enter the commerce of such country or any country other than the countries of the ultimate and intermediate consignees shown on the declaration without such prior approval.

Sec. 386.6 Destination control statements.—(a) *Requirement for destination control statement.* An appropriate destination control statement shall be entered on the bill of lading, the air waybill, and the commercial invoice, for any export under:

(1) A validated license;

(2) General License GLV, GMS, GTF-US, GTE, or GLR; or

(3) General License D-DEST if:

(i) The value of the shipment exceeds $250; and

(ii) The commodity exported is identified by the symbol "Y" in the "Validated License Required" column of the Commodity Control List.

A destination control statement is mandatory for the exports described above. The same statement shall appear on all copies of all such shipping documents that apply to the same shipment. At the discretion of the exporter or his agent, a destination control statement may also be entered on the shipping documents covering any other exports.

(b) [*Reserved*]

(c) *Statement to be used.* There are three destination control statements (see paragraph (d) of this section), any one of which may be used, as follows:

(1) *Shipments under General License GMS.* For a shipment under General License GMS, Statement 1 only shall be used.

(2) *Shipments under a general license other than GMS.* For a shipment under any general license other than General License GMS, any of the three statements may be used.

(3) *Validated license shipments.* For a shipment under a validated license, either Statement 1 or Statement 2 shall be used. Statement 1 should be used where the license shows that the commodities or technical data are licensed for export to the country of ultimate destination only. Statement 2 should be used where the license specifically shows that the commodities or technical data may be distributed or resold to other specified countries.

(d) *Statements*—(1) *Statement 1.*

These (commodities) (technical data) licensed by the United States for ultimate destination (name of country). Diversion contrary to U.S. law prohibited.

The country of ultimate destination[4] [5] named on the declaration, and if applicable on the validated license, shall be entered in the blank country space.

(2) *Statement 2.*

These (commodities) (technical data) licensed by the United States for ultimate destination (name of country) and for distribution or resale in (name of country(ies)). Diversion contrary to U.S. law prohibited.

The country spaces shall be completed as follows:

(i) *General license shipments.* For a shipment under a general license other than General License GMS:

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[4] Where the country of ultimate destination is Vietnam, the destination control statement shall be completed as required by section 385.4(d) of this chapter regardless of the country designation shown on the declaration and regardless of whether the shipment is under a validated or general license.

[5] On bills of lading, air waybills, and invoices, preprinted destination control statements may be used in which the country of ultimate destination is clearly and unambiguously indicated by reference to a designated entry elsewhere on the same document.

(a) The country of ultimate destination[4] named on the declaration shall be entered in the first space; and

(b) The following shall be entered in the last space:

> Any destination except Soviet Bloc,[6] the People's Republic of China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

If the export requires a validated license for Poland or Romania, these countries shall be included in the last space. If the export does not require a validated license for a country in the prohibited list, that country may be deleted.

(ii) *Validated license shipments.* For a validated license shipment:

(a) The country of ultimate destination named on the license shall be entered in the first space; and

(b) The country(ies) shown on the license as approved for distribution or resale shall be entered in the last space. If no such country is shown on the license, the word "none" shall be entered in the last place.

(3) *Statement 3.*

> U.S. law prohibits disposition of these commodities to the Soviet Bloc,[6] the People's Republic of China, North Korea, Macao, Hong Kong, Communist controlled areas of Vietnam, Cuba, or Southern Rhodesia, unless otherwise authorized by the United States.

Statement 3 permits distribution or resale to any country in the world other than those specifically excepted. If the export does not require a validated license for an excepted country, that country may be deleted. If the export requires a validated license for Poland and Romania, add these countries to the prohibited destination listed in this statement.

(e) *Preprinted statement.* A destination control statement may be preprinted on bills of lading, air waybills, or commercial invoices. But in this case, only one of the three destination control statements above may be shown on any one of these documents.

(f) *Permissive reexports.* If an exporter or his agent uses a more restrictive destination control statement than is necessary, the reexport provisions of section 374.2 of this chapter may nevertheless authorize reexport to certain destinations. Where reexport is authorized, the exporter may so advise his foreign importer without obtaining further authorization from the Office of Export Control. In all other instances, specific authorization shall be obtained from the Office of Export Control (see section 374.3 of this chapter).

(g) *Responsibility for use of statement*—(1) *Primary responsibility*—(i) *General.* The exporter has the primary responsibility for assuring entry of an appropriate destination control statement on the commercial invoice, regardless of whether he prepares this document. If a forwarder, a carrier acting as a forwarder, or any other party prepares, presents, and/or executes this document, the forwarder, carrier, or other party is also responsible for assuring that an appropriate statement is entered on the document. The carrier, as the party that issues the bill of lading or air waybill, has the primary responsibility for assuring that the same statement appearing on the corresponding invoice also appears on the bill of lading or air waybill. Any other party who prepares a bill of lading or air waybill is also responsible for assuring that an appropriate statement is placed on the document.

(ii) *Appropriate statement.* For a general license shipment, an understanding must be reached between the exporter and forwarder, carrier, or other agent as to which statement shall be used. For a validated license shipment, if a forwarder, carrier, or other agent does not have a copy of the commercial invoice, he can determine the appropriate destination control statement from the export license.

(2) *Statement on bill of lading or air waybill*—(i) *General.* No carrier shall issue (and no exporter, licensee, shipper, consignor, consignee, agent, or any other person, shall prepare or procure) a bill of lading covering an export for which a destination control statement is required under the provisions of paragraph (a) of this section, unless all copies of such bill of lading (including all nonnegotiable and office copies) contain the same statement in clearly legible form.

(ii) *Air waybill.* In the case of shipments by air (other than airmail or air parcel post), this requirement applies to any air waybill, including one issued by a consolidator (direct carrier) for an export included in a consolidated shipment. However, these provisions do not apply to a "master" air waybill issued by a carrier to cover a consolidated shipment.

(iii) *More than one statement applicable to bill of lading.* If one bill of lading is issued for two or more individual shipments to which different destination control statements apply, the applicable statement shall be entered beneath each shipment or group of shipments. However, if the bill of lading shows a single freight tariff classification to describe several commodities which require the use of more than one statement, and it is impracticable to separate the commodities on the bill of lading, the most restrictive statement applicable to any of the groups shall be used. The commercial invoice should, nevertheless, segregate the commodity groups and show the proper statement for each group.

(3) *Statement on commercial invoice*—(i) *General.* No licensee, shipper, consignor, exporter, agent, or any other person shall prepare or issue a commercial invoice for a shipment for which a destination control statement is required under the provisions of paragraph (a) of this section, unless all copies of the invoice(s) contain the same destination control statement in clearly legible form. This statement shall be an applicable statement as set forth in paragraph (d) of this section.

(ii) *Distribution of copies of statement.* Whenever a commercial invoice is issued containing the prescribed destination control statement, the shipper or other person issuing such invoice shall promptly send copies to:

(a) The ultimate consignee and the purchaser named in the declaration;

(b) The intermediate consignee; and

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[6] As used in the destination control statement, the term "Soviet Bloc" means all countries in Country Group Y, except the People's Republic of China. Neither Poland, Romania, nor Yugoslavia are Y countries.

(c) Any other persons named in the invoice who are located in a foreign country. Nothing contained herein shall be construed to limit the persons or classes of persons to whom such invoices, bills of lading or air waybills are usually and customarily sent in the course of export trade. The shipper or other person issuing the commercial invoice may omit all reference to price or sales commission from the copy of the invoice sent to any of the above-mentioned persons: *Provided,* Such invoice otherwise adequately identifies the shipment. As an alternative, in lieu of a copy of the commercial invoice, such person may send a copy of the bill of lading or air waybill containing the destination control statement.

(iii) *Commercial invoices not containing a statement.* If the forwarding agent receives from the exporter a copy of a commercial invoice without the correct destination control statement, he shall:

(a) Notify the exporter in writing;

(b) Request written assurance from the exporter that (1) the destination control statement has been properly entered on all other copies of the commercial invoice, and (2) any person who received an invoice without the statement has been informed in writing of the restrictions set forth in the statement;

(c) Either (1) enter the appropriate statement on his copy of the invoice, or (2) return it to the exporter for proper completion; and

(d) Keep and make available for inspection, in accordance with section 387.11 of this chapter, a copy of his notification to the exporter and the original of the exporter's assurance to him. (For further recordkeeping requirements, see section 387.11 of this chapter.)

(h) *Release of custody by carrier.* No carrier shall release custody of a shipment covered by the provisions of this section to any party without surrender by that party, to the carrier, of a copy of the bill of lading or air waybill bearing on its face the applicable destination control statement, unless either:

(1) Simultaneously with the release, the carrier delivers to such party a written copy of the destination control statement, contained in the carrier's copy of the bill of lading or air waybill for the shipment. The written copy shall identify the shipment by bill of lading or air waybill number, name of carrier, voyage or flight number, date, and port of arrival. The carrier shall also secure either a signed receipted copy of the written statement or other equivalent written evidence that the statement has been delivered by the carrier; or,

(2) The regulations of the importing country require the carrier to deliver the commodities directly into the physical possession and control of customs or other government agency for delivery to the consignee or his agent. In this case, the carrier need not give to, or receive from, the customs or other government agency, or the consignee or his agent, any document bearing the destination control statement.

(i) *Notice and prohibition against diversion*—(1) *Conduct after receiving notice.* After receiving an invoice, bill of lading, air waybill, or any other document containing notice of the prohibition against diversion set forth in a destination control statement, or after receiving oral notice of such prohibition, no person so notified including the ultimate consignee, intermediate consignee, or on forwarding carrier shall divert, transship or reexport (or cause to be diverted, transshipped, or reexported) any shipment described in the written or oral notice to any country not authorized in such notice.

(2) *Proof of notice.* In any administrative compliance proceeding brought by the Office of Export Control, evidence of the sending of such invoice, bill of lading, air waybill, or other form of notice of the prohibition against diversion to any person, shall constitute prima facie proof of that person's receipt thereof. This shall also constitute notice that the commodities have been licensed for a particular country of ultimate destination and may not be lawfully diverted to any other country. In addition, proof of the sending of such notice to the intermediate consignee shall be deemed notification of such prohibition to the ultimate consignee and purchaser.

(j) *Effect of foreign laws.* Reexport authority contained in a destination control statement does not relieve any person from complying with foreign laws. (See section 374.9 of this chapter.)

Sec. 386.7 Shipping tolerance.[7]—(a) *When tolerance allowed.* A shipping tolerance is allowed over the quantity specified on a validated export license, unless such tolerance is limited or prohibited by the terms of the license or by the following provisions of this section 386.7.

(b) *Amount of tolerance allowed*—(1) *Ten percent tolerance.* A shipping tolerance of 10 percent is allowed when the quantity on the license is in the terms set forth below. If no quantity is specified on the license, the tolerance will be allowed on the total price shown for each entry on the license:

Avoirdupois ounce
Bale
Barrel
Bushel
Content pound
Cubic foot
Gallon
Gram
Hundred weight (100 pounds)
Linear foot
Linear yard
Long ton (2,240 pounds)
M (1,000) board feet
Milligram
Oxford unit
Pound
Proof gallon
Short ton (2,000) pounds)
Square foot
Square yard
Troy ounce
U.S.P. unit

(2) *Tolerance inapplicable.* The tolerance provisions of this section shall not apply to the following units of quantity:

Carat
Cell
Dozen

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[7] Also see section 372.11 of this chapter for amendment procedure if the increase does not fall within allowable tolerances.

Gross
Number
Pack
Pair
Pencil gross
Piece
Ream
Roll
Round
Square
Set

(c) *Partial shipments.* Whenever one or more partial shipments of the licensed commodity has been made, the tolerance applies only to the unshipped balance, except that for iron and steel products and tin plate, the tolerance is allowed on the basis of the actual quantity approved on the license.

(d) *Tolerance inapplicable after total shipped.* Where the quantity (or total price if applicable) stated on the license has been shipped, no further shipment may be made under the license.

Sec. 386.8 Authority of customs offices and postmasters in clearing shipments.—(a) *Delegation of authority to customs offices and postmasters.* Customs offices and postmasters, including all customs and post office officials, are authorized and directed to take appropriate action to assure observance of the provisions of the Export Control Regulations and of general and validated licenses issued thereunder. This includes, but is not limited to, inspection of commodities and technical data being exported or about to be exported. The functions delegated to customs offices and postmasters by this section 386.8(a) may also be carried out by officials of the Office of Export Control.

(b) *Types of actions which may be taken by customs offices.* The following types of actions, among others, are authorized to be taken by customs offices:

(1) *Examination of commodities*—(i) *Purpose of examination.* All commodities and technical data declared for export are subject to examination by customs officials for the purpose of verifying the commodity or technical data specified in the Shipper's Export Declaration, and the value and quantity thereof, and to assure observance of the other provisions of the Export Control Regulations. This authority applies to exports under either a general or a validated export license and also to exports to Canada. This examination may include, but is not limited to, commodity identification, technical appraisal (analysis), or both.

(ii) *Place of examination.* Examination shall be made at the place of lading or where customs officials are stationed for that purpose.

(iii) *Technical identification.* Where, in the judgment of the customs office, the commodity or technical data cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis. The shipment will not be delayed after sampling for completion of the analysis.

(a) *Obtaining samples.* The sample will be obtained by the customs official in accordance with the provisions for sampling imported merchandise. The size of the sample shall be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas) and the size and shape of the container.

(b) *Notification to exporter and consignee.* When a sample is taken, the exporter (or his agent) and ultimate consignee shall be notified on Notice of Retained Samples, Form IT-915 (see Supplement S-16 for facsimile). The customs official shall prepare this form in triplicate, showing the name of the port of export, date of sampling, declaration number, license number (if any), mark and case numbers, amount of sample, manufacturer's number, and description of the commodity. The original Form IT-915 shall be placed in the opened container, the duplicate sent to the exporter or his agent, and the triplicate retained by the customs office.

(c) *Disposal of samples.* Samples will be disposed of in accordance with the customs office procedure for imported commodities.

(2) *Inspection of documents*—(i) *General.* The customs office is authorized to require exporters or their agents, and owners and operators of exporting carriers or their agents, to produce for inspection or copying: invoices, orders, letters of credit, inspection reports, packing lists, shipping documents and instructions, correspondence, and any other relevant documents; as well as furnish other information bearing upon a particular shipment intended for export or removal from the United States and the identity and relationships of all participants therein.

(ii) *Cartridge and shell case scrap.* When cartridge or shell cases are being exported as scrap (whether or not they have been heated, flame-treated, mangled, crushed, or cut) the customs office is authorized to require the exporter to produce a copy of the bid offer by the armed services in order to assure that the terms of the Export Control Regulations are being met and that the material being shipped is scrap.

(3) *Questioning of individuals.* The customs office is authorized to question the owner or operator of an exporting carrier and his agent(s), as well as the exporter and his agent(s), concerning a particular shipment exported or intended to be exported.

(4) *Prohibiting lading.* The customs office is authorized to prevent the lading of commodities or technical data on an exporting carrier whenever the customs office has reasonable cause to believe that the export or removal from the United States is contrary to the Export Control Regulations.

(5) *Inspection of exporting carrier.* The customs office is authorized to inspect and search any exporting carrier at any time to determine whether commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(6) *Seizure.* The customs office is authorized, under title 22 of the United States Code, section 401, et seq., to seize and detain any commodities or technical data whenever an attempt is made to export them in violation of the Export Control Regulations, or whenever it knows or has probable cause to believe that commodities or technical data are being, or have been exported in violation of the Export Control Regulations. Seized commodities or technical data are subject to forfeiture.

(7) *Preventing departure of carrier.* The customs office is authorized under title 22 of the United States Code, section 401, et seq., to seize and detain, either before or after clearance, any vessel or vehicle or air carrier which has been or is being used in exporting or attempting to export any commodity or technical data intended to be, being, or having been exported in violation of the Export Control Regulations.

(8) *Ordering the unloading.* The customs office is authorized to unload, or to order the unloading of commodities or technical data from any exporting carrier, whenever the customs office has reasonable cause to believe such commodities or technical data are intended to be, or are being, exported or removed from the United States contrary to the Export Control Regulations.

(9) *Ordering the return of commodities.* If, after notice that an inspection of a shipment is to be made, a carrier departs without affording the customs office or Office of Export Control personnel an adequate opportunity to examine the shipment, the owner or operator of the exporting carrier and his agent(s) may be ordered to return commodities or technical data exported on such exporting carrier and make them available for inspection.

(10) *Designating time and place for clearance.* The U.S. Bureau of Customs is authorized to designate times and places at which U.S. exports may move by land transportation to countries contiguous to the United States.

Sec. 386.9 Return or unloading of cargo at direction of U.S. Department of Commerce.—(a) *Exporting carrier.* As used in this section 386.9, the term "exporting carrier" includes a connecting or on-forwarding carrier, as well as the owner, charterer, agent, master, or any other person in charge of the vessel, aircraft, or other kind of carrier, whether such person is located in the United States or in a foreign country.

(b) *Ordering return or unloading of shipment.* Where there are resonable grounds to believe that a violation of the Export Control Regulations has occurred or will occur with respect to a particular export from the United States, the Office of Export Control or any U.S. customs officer may order any person in possession or control of such shipment, including the exporting carrier, to return or unload the shipment. Such person shall, as ordered, either (1) return the shipment to the United States or cause it to be returned, or (2) unload the shipment at a port of call and take steps to assure that it is placed in custody under bond or other guaranty not to enter the commerce of any foreign country without prior approval of the Office of Export Control. For the purpose of this section, the furnishing of a copy of the order to any person included within the definition of exporting carrier shall be sufficient notice of the order to the exporting carrier.

(c) *Requirements regarding shipment to be unloaded.* The provisions of section 386.5(b), relating to reporting, notification to the Office of Export Control, and the prohibition against unauthorized delivery or entry of the commodity or technical data into a foreign country, shall apply also to commodities or technical data directed to be unloaded at a port of call, as provided in this section.

(d) *Notification.* Upon discovery by any person included within the term "exporting carrier," as defined in this section 386.9, that a violation of the Export Control Regulations has occurred or will occur with respect to a shipment on board, or otherwise in the possession or control of the carrier, such person shall immediately notify both (1) the Director, Compliance Division, Office of Export Control (Attention: 848), U.S. Department of Commerce, Washington, D.C. 20230; and (2) the person in actual possession or control of the shipment.

Sec. 386.10 Other applicable laws and regulations.— The Export Control Regulations contained in this part apply only to exports regulated by the Office of Export Control, U.S. Department of Commerce. Nothing contained in this Part 386 shall relieve any person from complying with any other law of the United States or rules and regulations issued thereunder, including those governing declarations and manifests, or any applicable rules and regulations of the Bureau of Customs.

XXI. FEDERAL IMPORT MILK ACT

Regulations of the Department of Health, Education, and Welfare relating to the enforcement of the Federal Import Milk Act, Code of Federal Regulations, title 21, sections 290.2-290.4, 290.8, 290.11, 290.27-290.29.

Sec. 290.2 Scope of the Act.—The provisions of the act apply to all milk and cream offered for import into the continental United States.

Sec. 290.3 Milk.—For the purposes of the act and of the regulations in this part: Milk is the whole, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within 15 days before and 5 days after calving, or such longer period as may be necessary to render the milk practically colostrum free.

Sec. 290.4 Cream.—Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing or is separated from it by centrifugal force.

Sec. 290.8 Pasteurization.—Pasteurization is the process of heating every particle of milk or cream to at least 143° F, and holding it at such temperature continuously for at least 30 minutes, or to at least 161° F, and holding it at such temperature continuously for at least 15 seconds.

Sec. 290.9 Shipper.—A shipper is anyone, other than a common carrier, who ships, transports, or causes to be shipped or transported into the United States milk or cream owned by him.

Sec. 290.10 Secretary.—Secretary means the Secretary of Health, Education, and Welfare.

Sec. 290.11 Commissioner.—Commissioner means the Commissioner of Food and Drugs.

Sec. 290.27 Application for Permit.—Application for permit to ship or transport milk or cream into the United States shall be made by the actual shipper upon forms prescribed by the Secretary. The request for forms of applications for permits should be addressed to Commissioner of Food and Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. 20230.

Sec. 290.28 Permit Number.—Each permit issued under the Import Milk Act, including each temporary permit, shall bear an individual number. The right to the use of such number is restricted solely to the permittee.

Sec. 290.29 Form of Tag.—Each container of milk or cream shipped or transported into the United States by such permittee shall have firmly attached thereto a tag in the following form, bearing the required information in clear and legible type:

Product ______________________________
(State whether raw milk, pasteurized
milk, raw cream, or pasturized cream)

Permit number ________________________
Federal Import Milk Act.
Department of Health,
Education, and Welfare.

Shipper ______________________________
Address of shipper ____________________

Provided, That in case of unit shipments consisting of milk only or cream only under one permit number, in lieu of each container being so marked, the vehicle of transportation, if sealed, may be tagged with the above tag, which should in addition show the number of containers and the quantity of contents of each.

XXII. REGULATIONS OF THE MARITIME ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE

Regulations of the Maritime Administration, United States Department of Commerce, relating to certain matters handled by customs officers, Code of Federal Regulations (revised as of January 1, 1965), title 46, sections 221.4-221.7, 221.11, 221.12, 221.14-221.16, 221.21-221.30, 222.2-222.5.

APPROVAL OF CERTAIN TRANSFERS OF VESSELS TO ALIEN OWNERSHIP, CONTROL, OR REGISTRY, ETC.

Sec. 221.4 Approval of certain transactions covered by section 37, Shipping Act, 1916, as amended.—The Department of Commerce, Maritime Administration, hereby grants approval under section 37 of the Shipping Act, 1916, as amended (40 Stat. 901; 46 U.S.C. 835) to the following transactions:

(a) The sale, mortgage, lease, charter, delivery, or transfer and agreement for the sale, mortgage, lease, charter, delivery, or transfer to any person not a citizen of the United States of vessels having an overall length of 65 feet or less, or any interest therein, owned in whole or in part by any person a citizen of the United States, or of any State, territory, district, or possession, thereof, and which are not documented under the laws of the United States, or the last documentation of which was not under the laws of the United States; and the transfer to or placing under foreign registry or flag of any such vessel;

(b) The making of agreements or the effecting of understandings whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest in or the majority of the voting power in a corporation which is organized under the laws of the United States or any State, territory, district, or possession thereof, and which owns a vessel covered by paragraph (a) of this section;

(c) The entrance into any contract, agreement, or understanding to construct any vessel of any size within the United States for, or to be delivered to, a person not a citizen of the United States; and the transfer to or placing under foreign registry or flag of any such vessel;

(d) The departure from any port of the United States of any vessel which was constructed in whole or in part within the United States, has not been documented under the laws of the United States, and has never been cleared for any foreign port.

(e) The approvals hereby granted shall not apply if a transaction involves a national of Southern Rhodesia, North Korea, Cuba, or the Communist-controlled area of Vietnam (unless (1) such national has been lawfully admitted into, and resides in, the United States and (2) such national does not remove the vessel from the territorial limits of the United States); nor shall they apply if the vessel is to be transferred to or placed under the registry or flag of any such country.

(f) The approvals hereby granted do not supersede the requirements of (1) the Department of State, 22 CFR Part 121 et seq. pertaining to articles enumerated in the U.S. munitions list and (2) the Bureau of International Commerce, Office of Export Control as to any navigational apparatus requiring a validated license.

Sections 221.5, 221.6 [Reserved]

Sec. 221.7 Approval of charters of certain vessels to aliens.—(a) The Department of Commerce Maritime Administration, hereby approves under sections 9 and 37 of the Shipping Act, 1916, as amended (52 Stat. 964; 40 Stat. 901; 46 U.S.C. 808 and 835) the charter to a person not a citizen of the United States of any vessel (including space in such vessel) documented under the laws of the United States, or the last documentation of which was under the laws of the United States, or owned in whole or in part by any person a citizen of the United States, or by a corporation organized under the laws of the United States or of any State, Territory, District or possession thereof, for a period not more than six (6) months, or for a voyage or voyages the duration of which will probably not exceed six (6) months, except:

(1) Demise or bareboat charters;

(2) For the carriage of cargoes of any kind to or from the Soviet Union, Latvia, Lithuania, Estonia, Poland, Czechoslovakia, Hungary, Rumania, Bulgaria, Albania, North Korea, the Soviet Zone of Germany, Manchuria, Communist China, the Communist-controlled area of Viet Nam, or Cuba;

(3) For use in the fisheries.

(b) A copy of any such charter, as executed, which is approved by this section shall be filed with the Secretary of the Maritime Administration as soon as may be practicable but in any event not later than twenty (20) days after the beginning of the charter period or within such further time as may be permitted by the Maritime Administration.

(c) When any charter, subcharter, contract of affreightment, lease or contract for the chartering of space with a non-citizen declares, states or provides that the duration thereof is to be, or may be, for a period in excess of six (6) months, such charter, subcharter, contract of affreightment, lease or contract, shall be deemed to be for the entire period of time specifically declared therein, notwithstanding the inclusion of a special provision or provisions therein that the period of the duration in excess of six (6) months is to be subject to the approval of the Maritime Administration, or the inclusion therein of a provision permitting the substitution of another vessel other than a vessel of United States registry. To become effective such charter, subcharter, contract of affreightment, lease or contract will require the prior approval of the Maritime Administration prior to the date of the commencement of the first six (6) months.

(d) The duration or period of time of any new charter, lease or contract with the same non-citizen charterer, or with any non-citizen charterer, which is an affiliate, or associate, or subsidiary, or related company, or holding company of the original non-citizen charterer, covering the same vessel and entered into and executed within thirty (30) days after the termination of any charter, lease or contract or consecutive voyages, approval to which is granted by the blanket approval provided for hereinabove, is to be added to the duration or period of time covered by the previous charter, lease or contract, and, if the duration of the two charters, leases or contracts, when added together, cover a period in excess of six (6) months, such new charter, lease or contract shall be construed as a renewal or extension of the old charter, lease or contract and will require the prior approval of the Maritime Administration before it can become effective, notwithstanding the inclusion in said new charter, lease or contract of a provision permitting the substitution of another vessel other than a vessel of United States registry.

This General Order 59, Revised (Sec. 221.7) shall be effective as to all charters entered into on and after January 24, 1951.

OATHS OF CITIZENSHIP

Sec. 221.11 Citizenship declarations by owners or mortgagees of vessels of the United States as required by section 40 of the Shipping Act, 1916, as amended.—Whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented to any collector of customs to be recorded, the vendee, mortgagee, or transferee shall file therewith, as provided by section 40 of the Shipping Act, 1916, as amended (sec. 4, 40 Stat. 902; 46 U.S.C. 838), a declaration or declarations as prescribed by this sec. 221.11.

(a) Form MA-4557 and, in connection therewith when appropriate, Form MA-4557-A shall be filed by a corporation; Form MA-4558 shall be filed by an individual; Form MA-4559 shall be filed by a partner, joint owner, or member of copartnership or unincorporated company or association; Form MA-4560 and, in connection therewith when appropriate, Form MA-4560-A shall be filed by a mutual insurance company; Form MA-4561 shall be filed by a mutual savings bank; Form MA-4562 shall be filed by a corporation within the purview of Public Law 85-902 (72 Stat. 1736); and Form MA-4563 shall be filed by a trustee to whom a mortgage of a vessel is given (but not in substitution for any other declaration required to be filed under this section).

(b) Forms MA-4557, MA-4557-A, MA-4558, and MA-4559 for execution by the respective parties indicated shall read as follows: * * *[1]

(c) The Maritime Administration Forms Nos. MA-4557 (Rev. 11-1-51), and, in connection therewith, when appropriate, MA-4557-A)Rev. 6-51), MA-4558 (Rev. 11-1-51) and MA-4559 (Rev. 11-1-51) shall continue to be used as available.

(d) Form MA-4560 (5-4-55) and in connection therewith, when appropriate, Form MA-4560-A (5-5-55), for execution by a corporation (specifically applicable to mutual insurance companies) not authorized to issue capital stock but in which the voting power is exercised by its members, shall read as follows: * * * * *.

(e) Form MA-4561 for execution by a corporation (specifically applicable to mutual savings banks) not authorized to issue capital stock but in which the voting power is exercised by its members, shall read as follows: * * *

(f) Form MA-4562 for execution by a corporation falling within the purview of Public Law 85-902 (72 Stat. 1736) shall read as follows: * * *

(g) Form MA-4563 for execution by each trustee to whom a mortgage of a vessel is given (but not in substitution for any other declaration required to be filed under this section), shall read as follows: * * *

SURRENDER OF DOCUMENTS

Sec. 221.12 Instance in which subsection O (a) does not apply.—Subsection O (a) of the Ship Mortgage Act, 1920, which is contained in section 30 of the Merchant Marine Act, 1920, does not apply to a case in which a vessel owner merely renews the license or changes the document incident to change of trade where the ownership and home port remain the same, or changes to a permanent document on arrival of the vessel at her home port under temporary document.

Fees for Certain Services

Sec. 221.14 Charges for processing applications for approval of the transfer or charter of vessels pursuant to secs. 9 and 37, Shipping Act, 1916, as amended.—(a) An application for approval of the sale of a vessel to an alien and/or transfer of a vessel to foreign registry shall be accompanied by the sum of $125.00 for each vessel of 3,000 gross tons and over; $25.00 for each vessel of over 100 gross tons but less than 3,000 gross tons; and $15.00 for each vessel of 100 gross tons and under;

(b) An application for modification of an approval of a vessel sale to an alien and/or of a vessel transfer to foreign registry shall be accompanied by the sum of $125.00 for each vessel of 3,000 gross tons and over; $25.00 for each vessel of over 100 gross tons but less than 3,000 gross tons; and $15.00 for each vessel of 100 gross tons and under;

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[1] Copies of the Forms and Instructions currently in use and those to be used beginning January 1, 1957, are filed with the Federal Register Division as a part of the original document, and may be obtained from the Statistics and Special Studies Office, Maritime Administration, Washington, D.C. 20235

(c) An application for approval of a mortgage of a vessel to an alien shall be accompanied by the sum of $25.00;

(d) An application for approval of a charter of a vessel to an alien shall be accompanied by the sum of $25.00;

(e) All fees set forth in this section will be retained to recover the cost of processing the applications;

(f) Applications for such approvals as set forth in this section should be made to the Foreign Transfer Branch, Office of Ship Operations, Maritime Administration, Washington, D.C. 20235, on forms which may be obtained from said Branch.

Sec. 221.15 Fee for processing applications for approval of surrender of marine documents of vessels under sec. 30, subsection 0(a), Merchant Marine Act, 1920, as amended.—An application for approval of the surrender of the marine documents of a vessel shall be accompanied by the sum of $15.00, which sum will be retained to recover the cost of processing the application. Such application should be made to the Foreign Transfer Branch, Office of Ship Operations, Maritime Administration, Washington, D.C. 20235, on forms which may be obtained from said Branch.

Sec. 221.16 Fee for processing applications to transfer vessels, subject to mortgage outstanding in favor of the United States of America.—(a) Application for permission to transfer title to a vessel, subject to a mortgage in favor of the United States of America pursuant to the provisions of the 1936 Act and related Acts, or special legislation, and to have the mortgage assumed by a new mortgagor, may be made by the mortgagor joined by the proposed transferee, to the Secretary, Maritime Administration, Washington, D.C. 20235.

(b) Fee: Such application shall be accompanied by the sum of $400, which sum will be retained to recover the cost of processing the application.

Sec. 221.21 Purpose.—The purpose of secs. 221.21-221.30 is to provide for the approval and disapproval by the Secretary of Commerce of banks and trust companies as trustees under Public Law 89-346 (amending secs. 9 and 37 of the Shipping Act, 1916, and subsec. 0 of the Ship Mortgage Act, 1920, and providing a procedure for assuring the validity of certain bonds, notes and other evidence of indebtedness, including the issuance, transfer and assignment thereof, and the validity and preferred status of certain mortgages of vessels). The functions of the Secretary of Commerce under Public Law 89-346 have been delegated to the Maritime Administrator pursuent to sec. 3.03 of Department Order 117 (Revised) (27 F.R. 3637, April 27, 1962).

Sec. 221.22 Definitions.—As used in secs. 221.21 to 221.30, including the forms referred to in sec. 221.30, the term "vessel" means a vessel the transfer of which to a person not a citizen of the United States is prohibited by sections 9 or 37 of the Shipping Act, 1916, as amended, and for the purpose of section 9 also means a vessel under construction for documentation under the laws of the United States and owned in whole or in part by a citizen of the United States; the term "shipyard, drydock, or ship-building or ship-repairing plant or facilities" means those the transfer of which to a person not a citizen of the United States is prohibited by section 37 of the Shipping Act, 1916, as amended; and the term "Vessel or Shipyard Financing Trust" means each trust under which a bank or trust company acts as trustee in connection with a bond, note or other evidence of indebtedness which is secured by a mortgage of a vessel to the trustee or by an assignment to the trustee of the owner's right, title or interest in a vessel under construction, or by a mortgage to the trustee on a shipyard, drydock, or ship-building or ship-repairing plant or facilities (irrespective of the number of such bonds, notes or other evidence of indebtedness, mortgages or assignments, vessels, or shipyards, drydocks, or ship-building or ship-repairing plants or facilities involved in the particular Vessel or Shipyard Financing Trust).

Sec. 221.23 Applications.—(a) Any qualified bank or trust company, acting or proposing to act as trustee under a Vessel or Shipyard Financing Trust may apply for approval as trustee pursuant to Public Law 89-346 and secs. 221.21 to 221.30.

(b) Applications may be made at any time after the effective date of secs. 221.21 to 221.30. Applications shall be submitted to the Secretary, Maritime Administration, Washington, D.C. 20235.

(c) Applications shall be made in triplicate on the form of Application for Approval as Trustee set forth in sec. 221.30 with only such changes therein as may be approved by the Maritime Administrator. Each copy of the application shall be completed by the insertion of appropriate and full information as indicated on the form; shall be executed by a duly authorized official of the applicant; and shall be accompanied by an affidavit of citizenship and the most recent published report of condition of the applicant, unless (with the concurrence of the Maritime Administrator) reference is made to an affidavit or report previously filed. The form of affidavit of citizenship to be used in connection with applications is that prescribed in 32A CFR AGE-2 with only such changes therein as may be approved by the Maritime Administrator.

(d) A single application will suffice for requesting approval of a single bank or trust company as trustee under all Vessel or Shipyard Financing Trusts under which the bank or trust company is then or may thereafter be acting as trustee.

(e) If upon a merger, consolidation or other organizational change the bank or trust company approved as trustee ceases to be the continuing entity, a new application for the continuing entity will be required if it has not already been approved as trustee.

Sec. 221.24 Agreements of applicants.—Each applicant shall be bound by the agreements contained in its application, which agreements shall survive the approval of the applicant as trustee.

Sec. 221.25 Approval of applicants.—(a) Applicants meeting the standards for trustees specified in Public Law 89-346 will be eligible for approval as trustees. National banks, although designated national banking associations, will be eligible for approval as corporations organized and doing business under the laws of the United States. The Maritime Administrator, or his duly authorized representative, will indicate the approval of the Secretary of Commerce of an applicant as trustee by signing the Secretary's Approval appearing at the end of the application form and returning a duplicate signed copy to the applicant, but no approval shall be construed to alter retroactively any rights which were the subject matter of litigation pending on the date of enactment of Public Law 89-346.

(b) Upon approval, a Notice of Approval of Applicant as Trustee will be published. Upon receipt of notice of a change of name of an approved trustee (not requiring the filing of a new application pursuant to sec. 221.23) a Notice of Change of Name of Approved Trustee will be published.

Sec. 221.26 Roster of approved trustees.—Upon approval, each applicant will be placed on a Roster of Approved Trustees to be maintained by the Maritime Administrator according to trustee's name, address, and date of approval. Upon receipt of notice of a change of name or address of an approved trustee (not requiring the filing of a new application pursuant to sec. 221.23), an appropriate endorsement will be made on the Roster to show the new name or address of the approved trustee. The Roster of Approved Trustees will be available for public inspection in the office of the Secretary, Maritime Administration, Washington, D.C. 20235, during official business hours.

Sec. 221.27 Disapproval of trustees.—(a) Approved trustees shall be subject to disapproval if they cease to meet the standards for trustees specified in Public Law 89-346. Disapproval of a trustee shall become effective upon the date of publication of Notice of Disapproval of Trustee. A written notice of any proposed finding of lack of qualification of the trustee (which may include lack of qualification which will be inferred from the trustee's failure to furnish information relating to its qualification pursuant to the agreements contained in its application referred to in sec. 221.24) will first be mailed to the trustee. If the trustee satisfactorily demonstrates that no lck of qualification exists, a written notice of withdrawal of the proposed finding will be mailed to the trustee; otherwise a Notice of Proposed Finding of Lack of Qualification of Trustee will be published not less than 10 days after the date of said written notice to the trustee. If it is thereafter satisfactorily demonstrated that no lack of qualification exists a Notice of Withdrawal of Proposed Finding of Lack of Qualification of Trustee will be published; otherwise a Notice of Disapproval of Trustee will be published not less than 120 days after publication of the Notice of Proposed Finding of Lack of Qualification of Trustee.

(b) Copies of notices published pursuant to this section will be mailed to the trustee and to the borrowers under the trusts listed in the List of Vessel or Shipyard Financing Trusts (Executed) annexed to the Trustee's Application for Approval as Trustee, as from time to time supplemented and amended.

(c) Upon publication of a Notice of Disapproval of Trustee, the name of the trustee will be removed from the Roster of Approved Trustees.

Sec. 221.28 Removal without disapproval.—(a) Any approved trustee may request removal from the Roster of Approved Trustees without disapproval. Removal of a trustee shall become effective upon the date of publication of a Notice of Approval of Request for Removal from Roster of Approved Trustees. The trustee shall certify in its request for removal that it is no longer acting or proposing to act as trustee under a Vessel or Shipyard Financing Trust. A Notice of Request for Removal from Roster of Approved Trustees will first be published together with a statement of the trustee's aforesaid certification. If the approved trustee requests a withdrawal of its request for removal or if it is found that the trustee's certification is not correct based on information furnished to or otherwise available to the Maritime Administrator, a Notice of Withdrawal or Rejection of Request for Removal from Roster of Approved Trustees will be published; otherwise a Notice of Approval of Request for Removal from Roster of Approved Trustees will be published not less than 30 days after publication of the Notice of Request for Removal from Roster of Approved Trustees.

(b) Copies of notices published pursuant to this section will be mailed to the trustee and to the borrowers under the trusts listed in the List of Vessel or Shipyard Financing Trusts (Executed) annexed to the Trustee's Application for Approval as Trustee, as from time to time supplemented and amended.

(c) Upon publication of a Notice of Approval of Request for Withdrawal from Roster of Approved Trustees, the name of the trustee will be removed from the Roster of Approved Trustees.

Sec. 221.29 Publication of notices.—Whenever in secs. 221.21 to 221.30 reference is made to the publication of a notice or to a notice as having been published it means publication in the Federal Register by the Maritime Administrator.

Sec. 221.30 Forms.—The forms of Application for Approval as Trustee referred to in sec. 221.23 and the Trustee's Annual Supplemental Certification referred to in said Application as follows: * * *[2]

CARGO AND PASSENGER REPORTS

Sec. 222.2 Forms of vessel utilization and performance reports prescribed.—(a) Pursuant to authority of section 212(A) of the Merchant Marine Act, 1936, as amended by Public Law 612, 84th Congress; 70 Stat. 332; 46 U.S.C. 1122a, the Secretary of Commerce has determined that it is necessary and desirable in order to carry out the purposes and provisions of the Merchant Marine Act, 1936, as amended (49 Stat. 1985, et seq.; 46 U.S.C.

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[2] Copies of the Forms and Instructions currently in use are filed with the Federal Register Division as a part of the original document, and may be obtained from the Statistics and Special Studies Office, Maritime Administration, Washington, D.C. 20235.

1101, et seq.) to require an operator of a vessel in waterborne foreign commerce of the United States to file accurate reports on Forms MA-721 and MA-722 with respect to passenger and dry cargo vessels, on Form MA-578A with respect to vessels carrying certain containerized cargo; such forms and instructions for the preparation thereof are hereby prescribed and approved.[1]

(1) An accurate report on Form MA-721, Vessel Utilization and Performance Report—Inbound or Form MA-722, Vessel Utilization and Performance Report—Outbound, as the case may be, shall be filed in duplicate with the appropriate District Director of Customs for transmittal to the Maritime Administration by the operator of every self-propelled dry cargo and passenger vessel of 1,000 or more gross registered tons before midnight of the 30th calendar day after entry into the first U.S. port and before midnight of the 30th calendar day after clearing the last U.S. port.

(2) In addition, and subject to the same qualifying and filing requirements set forth above, an accurate report on Form MA-578A, Supplemental Unitized Cargo Container Report, shall be filed by such operator when, on any one voyage, a vessel carried 10 or more (i) 8 x 8 x 10 feet or larger containers, or (ii) half-height containers 8 feet in width and 10 or more feet in length, or (iii) flatbeds 8 feet in width and 20 or more feet in length.

(3) Forms MA-721, MA-722 and MA-578A are required to be filed also for all voyages of merchant vessels operated by or for the account of the Department of Defense except vessels of the Military Sea Transportation Service (MSTS) nucleus fleet.

(b) By agreement with the United States Customs Service, District Directors of Customs will be responsible for policing receipt of dry cargo and passenger vessel inbound and outbound reports on Form MA-721 and Form MA-722.

Sec. 222.3 Penalty.—Section 212(A) of the Merchant Marine Act, 1936, as amended (Public Law 612, 84th Congress; 70 Stat. 332; 46 U.S.C. 1122a), provides:

> Sec. 212(A). The operator of a vessel in waterborne foreign commerce of the United Sttes shall file at such time and in such manner as the Secretary of Commerce may prescribe by regulations, such report, account, record, or memorandum relating to the utilization and performance of such vessel in commerce of the United States, as the Secretary may determine to be necessary or desirable in order to carry out the purposes and provisions of this Act, as amended. Such report, account, record or memorandum shall be signed and verified in accordance with regulations prescribed by the Secretary. An operator who does not file the report, account, record, or memorandum as required by this section and the regulations issued hereunder, shall be liable to the United States in a penalty of $50 for each day of such violation. The amount of any penalty imposed for any violation of this section upon the operator of any vessel shall constitute a lien upon the vessel involved in the violation, and such vessel may be libeled therefor in the district court of the United States for the district in which it may be found. The Secretary of Commerce may, in his discretion, remit or mitigate any penalty imposed under this section on such terms as he may deem proper.

Sec. 222.4 Notice of failure to comply herewith and that petition for relief may be filed.—(a) Every offender under the regulations in this part shall be advised by the District Director of Customs as defined in 19 CFR 1.1(d) of any penalty incurred by him and of his right to apply for relief under section 222.5. If the offender fails to petition for relief or pay the penalty within 60 days from the date of mailing of the notice of violation as provided for herein, the case shall be referred immediately to the United States attorney for appropriate action, unless it appears that the person liable for the penalty is absent from the United States or during the said period was absent for more than 30 days, in which event the collector may withhold such action for a further reasonable time, or unless other action is expressly authorized by the Maritime Administrator. When a penalty is mitigated, and the mitigated penalty is not paid nor a supplemental petition filed within 60 days from the date a notice of the settlement is mailed to the petitioner, the matter shall be referred immediately to the United States attorney for appropriate attention, unless other action has been directed by the Maritime Administrator.

(b) No action looking to the remission or mitigation of a penalty shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for the institution of legal proceedings.

Sec. 222.5 Petition for relief.—(a) Any petition for relief from a penalty incurred under these regulations shall be addressed to the Maritime Administrator, signed by the petitioner, and filed with the collector of customs of the district in which the penalty was imposed. It shall set forth the facts relied upon by the petitioner to justify his request for relief.

(b) Upon receipt of a petition, the collector shall cause such investigation to be made as the facts in the case may warrant. In forwarding the petition to the Maritime Administrator, he shall forward with it a copy of the report of the investigation, if any, a statement of all other facts which may have come to his knowledge, and his recommendation as to the final action to be taken. If the petition involves a matter which has been referred to the Department of Justice for the institution of court proceedings, the collector shall transmit the petition immediately upon receipt to the appropriate United States attorney and notify the petitioner of such action.

(c) The decision of the Maritime Administrator will be forwarded to the collector for delivery to the petitioner.

XXIII. IMPORTATION OF WILDLIFE OR EGGS THEREOF

Regulations of the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior, relating to the importation of wildlife or eggs thereof, Code of Federal Regulations, Title 50, Part 13.

Title 50—Wildlife and Fisheries

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

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[1] Copy each of the Forms MA-721, MA-722 and MA-578A (3-21-67), together with instructions for their use, respectively, are on file in the Office of the Federal Register. These forms and instructions may be obtained from the Marine Section, District Director of Customs at U.S. ports.

Subchapter B—Hunting and Possession of Wildlife

Part 13—Importation of Wildlife or Eggs Thereof

Sec.
13.1 Meaning of terms.
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13.6 Importation of live wild birds or their eggs.
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13.8 Importation of live amphibians or their eggs.
13.9 Importation of live reptiles or their eggs.
13.10 Permits.
13.11 General permit provisions.
13.12 Declaration required to be filed upon entry.
13.13 Compliance with other laws and regulations.

Authority: The provisions of this Part 13 issued under sec. 43, 62 Stat. 667, as amended, 18 U.S.C. 42; 77A Stat. 29, 19 U.S.C. 1202 (Schedule 1, part 3, headnote 1-4, 4E, headnote 1).

Sec. 13.1 Meaning of terms.—As used in this part, terms shall have the meaning ascribed in this section.

(a) "Director" refers to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, or his authorized representative.

(b) "Wild" refers to all creatures that, whether raised in captivity or not, normally are found in a wild state.

(c) "Wildlife" refers to all species of mammals, birds, fish, mollusks, crustaceans, amphibians, reptiles, or their progeny or eggs that, whether raised in captivity or not, normally are found in a wild state.

(d) "Migratory birds" refers to those species of wild birds and their eggs which: (1) are indigenous to the United States, (2) belong to one of the Families of birds listed under Sec. 1.11 of this chapter, and (3) are afforded protection under the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703).

(e) "Game birds" refers to those species of wild birds belonging to the following Families of birds:

(1) Anatidae (wild ducks, geese, brant, and swans).
(2) Cariamidae (cariamas).
(3) Charadriidae (plovers, turnstones, killdeer, and surfbirds).
(4) Columbidae (wild doves and pigeons).
(5) Cracidae (curassows, guans, and chachalacas).
(6) Eurypygidae (sunbitterns).
(7) Gruidae (cranes).
(8) Haematopodidae (oystercatchers).
(9) Meleagrididae (wild turkeys).
(10) Numididae (guineafowls).
(11) Otidae (bustards and floricans).
(12) Pedionomidae (collared quail).
(13) Phalaropodidae (phalaropes).
(14) Phasianidae (quail, partridge, pheasants, and peafowl).
(15) Pteroclidae (sandgrouse).
(16) Rallidae (rails, gallinules, and coots).
(17) Recurvirostridae (avocets and stilts).
(18) Rostratulidae (painted snipe).
(19) Scolopacidae (woodcock, snipe, yellowlegs, curlews, willets, godwits, dowitchers, knots, sandpipers, and sanderlings).
(20) Tetraonidae (grouse and ptarmigan).
(21) Thinocoridae (seed snipe).
(22) Tinamidae (tinamous).
(23) Turnicidae (hemipode quail).

(f) "Non-game birds" refers to all other species of wild birds not considered as game birds under paragraph (e) of this section.

(g) "State" refers to any State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Sec. 13.2 General restrictions.—Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs of salmonids of the fish family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *PROVIDED*, That the provisions of this section shall not apply to game mammals imported from Mexico or to migratory birds, psittacine birds, and bald and golden eagles, the importation of which is governed by other Federal regulations.

Sec. 13.3 Importation of natural-history specimens.—Nothing in this part shall restrict the importation and transportation, without a permit, of dead natural-history specimens of wildlife or their eggs for museum or scientific collection purposes: *PROVIDED*, That the provisions of this section shall not apply to dead migratory birds, the importation of which is governed by regulations under Parts 10 and 16 of this chapter; to dead game mammals from Mexico, the importation of which is governed by regulations under Part 15 of this chapter; or to dead bald and golden eagles or their eggs, the importation of which is governed by regulations under Part 11 of this chapter.

Sec. 13.4 Importation by Federal agencies.—Nothing in this part shall restrict the importation and transportation, without a permit, of any live wildlife by Federal agencies solely for their own use, upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12: *PROVIDED*, That the provisions of this section shall not apply to bald and golden eagles or their eggs, or to migratory birds or their eggs, the importations of which are governed by regulations under Parts 11 and 16 of this chapter, respectively.

Sec. 13.5 Importation of live wild mammals.—(a) The importation, transportation, or acquisition is prohibited of live specimens of (1) any species of so-called "flying fox" or fruit bat of the genus *Pteropus;* (2) any species of mongoose or meerkat of the genera *Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos,* and *Suricata;* (3) any species of European rabbit of the genus *Oryctolagus;* (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon;* and (5) any species of multimammate rat, or mouse of the genus *Mastomys: PROVIDED,* That the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in Secs. 13.10 through 13.11.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12, all other species of live wild mammals may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live wild mammals or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency: *PROVIDED,* That the provisions of this paragraph shall not apply to live game mammals from Mexico, the importation of which is governed by regulations under Part 15 of this chapter.

Sec. 13.6 Importation of live wild birds or their eggs.—(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of (1) the species of so-called "pink starling" or "rosy pastor" *Sturnus roseus;* (2) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) *Quelea quelea;* (3) any species of Java sparrow, *Padda oryzivora;* (4) the species of red-whiskered bulbul, *Pycnonotus jocosus: PROVIDED,* That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under the terms and conditions set forth in Secs. 13.10 through 13.11.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12, all species of live wild game birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

(c) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12, all species of live, wild nongame birds (other than those listed in paragraph (a) of this section may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live, wild nongame birds or any progeny thereof may be released into the wild except by or under the direction of State wildlife conservation agencies when such agencies have received prior written permission from the Director for such release: *PROVIDED,* That the provisions of this paragraph shall not apply to live bald and golden eagles or to live migratory birds, the importation of which is governed by regulations under 50 CFR 11 and 16, respectively, or to birds of the Family *Psittacidae* (parrots, macaws, cockatoos, parakeets, lories, lovebirds, etc.), the importation and transportation of which is governed by U.S. Public Health Service regulations under 42 CFR 71 and 72.

(d) The importation of the eggs of wild non-game birds is prohibited except as permitted under Sec. 13.3.

Sec. 13.7 Importation of live or dead fish, mollusks, and crustaceans or their eggs.—(a) Except for the salmonids of the fish family Salmonidae, all species of live fish, live mollusks, and live crustaceans, or their live eggs, may be imported, transported, and possessed in captivity without a permit, for scientific, medical, educational, sale or exhibition, or propagational purposes upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12. No such live fish, live mollusks, live crustaceans, or any progeny, or live eggs thereof, may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(b) Notwithstanding authority granted Federal agencies in Sec. 13.4, all live or dead fish or eggs or salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by a certification that the importation is free of the protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease." The certification shall be signed in the country of origin by a designated official acceptable to the Secretary of the Interior, as being qualified in fish pathology, or in the United States, by a qualified fish pathologist designated for this purpose by the Secretary of the Interior.

The time requirements described in "Fisheries Disease Leaflet 9, I. C.2 and II. C.2," as a basis for certification would impose an embargo on all shipments of market-sized fish and eggs until July 1, 1969.

Therefore, certifying officers may, until July 1, 1969, on the basis of a single, comprehensive inspection using methods described in Fisheries Disease Leaflet 9, certify any shipment of market-sized fish or eggs as complying with the regulation at which time, the span of inspection time required in I. C.2 and II. C.2 will also become a mandatory provision of the regulation.

The certificate required by this section shall consist of a statement in the English language, printed or typewritten, stating that this shipment of fish or eggs is free from these two diseases by the methods outlined in Fish Disease Leaflet 9, and will contain (1) the date and port of export in the country of origin and the anticipated United States date of arrival and port of entry, (2) surface or air carrier and flight number, or vessel name or number, (3) bill of lading number or airway bill number, and (4) the handwritten signature, in ink, of the authorized certifying officer, and may be substantially in the following form:

I, ________________, approved by the Secretary of the U.S. Department of the Interior, on __________ as a
(Date)
certifying official for __________, as required by
(Country)
Title 50, CFR 13.7(b), do hereby certify, using the methodology described in Fish Disease Leaflet (FDL-9, July 1968), that this shipment of
______________________ of dead or live fish or fish
(Weight in pounds)
eggs to be shipped under ____________________
(Bill of
______________________________________ is free of the
lading number, or airway bill number)
protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease."

The shipment is scheduled to depart __________________,
(City and Country)
on __________, via ____________________
(Date) (Name of carrier)
cipated arrival at the port of ________________, U.S.A.,
(City)
on ________________
(Date)

____
(Signature in ink of certifying officers)

____
(Date)

(c) Nothing in this part shall restrict the importation and transportation of dead fish or dead eggs of salmonids of the fish family Salmonidae when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby all spores of the protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or so-called "Egtved disease" have been killed. Salmon landed in North America and brought into the United States for processing or sale, or any salmonid caught in the wild in North America under a sport or a commercial fishing license shall be exempt from the requirement for certification.

Sec. 13.8 Importation of live amphibians or their eggs.—Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12, all species of live amphibians or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live amphibians or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

Sec. 13.9 Importation of live reptiles or their eggs.—Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under Sec. 13.12, all species of live reptiles or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live reptiles or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

Sec. 13.10 Permits.—(a) Applications for permits issued pursuant to this part shall be made by letter addressed to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, and shall contain the following information:

(1) The name, address, and age of the applicant;

(2) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported, and possessed;

(3) The purpose of such importation or other acquisition, transportation, and possession;

(4) The address of the premises where such live wildlife will be kept in captivity;

(5) The name and address of the consignor or other person from whom such wildlife will be acquired; and

(6) A statement of applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) No permit will be issued unless the Director has determined that:

(1) The wildlife is being imported or otherwise acquired for a bona fide scientific, medical, educational, or zoological exhibition purpose;

(2) The facilities for holding the wildlife in captivity have been inspected and approved, and consist of a basic cage or structure of a design and material adequate to prevent escape which is maintained inside a building or other facility of such structure that the wildlife could not escape from the building or other facility after escaping from the cage or structure maintained therein;

(3) The applicant is a responsible person who is aware of the potential dangers to public interests posed by such wildlife, and who by reason of his knowledge, experience, and facilities reasonably can be expected to provide adequate protection for such public interests; and

(4) If such wildlife is to be imported or otherwise acquired for zoological or aquarium exhibition purposes, such exhibition or display will be open to the public during regular, appropriate hours.

Sec. 13.11 General permit provisions.—All permits issued pursuant to this part shall be subject to the following conditions:

(a) All live wildlife acquired under permit and all progeny thereof, must be confined in the approved facilities on the premises authorized in the permit.

(b) No live wildlife, acquired under permit, or any eggs or progeny thereof, may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director under Sec. 13.10 authorizing him to acquire and possess such wildlife or the eggs or progeny thereof.

(c) Permittees shall comply with any special terms, conditions, or restrictions prescribed in the permit.

(d) Permittees shall allow, at all reasonable times, any person authorized to enforce the provisions of this part, free and unrestricted access to the premises where wildlife will be, is, or has been confined.

(e) Permittees shall submit a report of all live wildlife acquired under authority of a permit to the Director within 10 days following the date of such acquisition.

(f) Permittees must notify the Director by letter within 10 days following the death and by telephone or telegraph within 24 hours following the escape of any wildlife or their progeny possessed under authority of a permit, unless specifically exempted from either requirement by special terms of his permit.

(g) Permits issued pursuant to this part shall not be construed to authorize the importation or other acquisition, possession, transportation, or disposal of any live wildlife contrary to any applicable laws or regulations of any State concerned and unless the permittee also possesses whatever State permit may be required for such activities.

Sec. 13.12 Declaration required to be filed upon entry.—With respect to any authorized importation of live wildlife, or dead salmonids of the fish family Salmonidae, without a permit, pursuant to provisions of Secs. 13.4 through 13.9, the importer or his broker must file a Declaration for importation of Wildlife (Bureau of Sport Fisheries and Wildlife Form 3-177 available through Customs at ports of entry) with the District Director of Customs at the port of entry where actual Customs inspection for clearance or release occurs. Such declaration must list the name and address of the importer and the broker if any; the name and address of the consignor; and the number of specimens and the common and scientific names of each species imported: *PROVIDED*, That no such declaration shall be required for the importation of domesticated canaries and psittacine birds.

Sec. 13.13 Compliance with other laws and regulations.—Any importation or other acquisition, transportation, and possession of wildlife permitted by this part does not relieve or eliminate responsibility for complying with any applicable health, quarantine, agriculture, customs, permit, or other requirements imposed by the laws or regulations of other duly authorized Federal and State agencies.

XXIV. RESERVED. (6/23/75)

XXV. FOREIGN ASSETS CONTROL REGULATIONS

Foreign Assets Control Regulations, Treasury Department, Code of Federal Regulations, title 31, sections 500.101-500.808. These regulations are also contained in pamphlets entitled "Foreign Assets Control Regulations and Related Documents" and "Commodity Supplement" thereto, both dated May 5, 1964. The Office of Foreign Assets Control also issues cumulative lists of changes of certifiable commodities when changes are made. Such changes are initially published in the Federal Register. The Supplement sets forth the sections of the regulations and other Foreign Assets Control documents which contain or relate to import restrictions on merchandise of Communist Chinese, North Korean, and North Viet-Namese origin and certain specified types of merchandise. See also the Foreign Assets Control Manual for Customs Personnel.

Cuban Assets Control Regulations

Cuban Assets Control Regulations, Treasury Department, Code of Federal Regulations, title 31, sections 515.101-515.808. These regulations are also contained in a pamphlet entitled "Cuban Assets Control Regulations and Related Documents," July 8, 1963, issued by the Office of Foreign Assets Control. The quotations are from the sections of the regulations containing import restrictions on merchandise of Cuban origin:

Sec. 515.204 Importation of and dealings in certain merchandise.—(a) Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses or otherwise, no person subject to the jurisdiction of the United States may purchase, transport, import, or otherwise deal in or engage in any transaction with respect to any merchandise outside the United States if such merchandise:

(1) Is of Cuban origin; or

(2) Is or has been located in or transported from or through Cuba; or

(3) Is made or derived in whole or in part of any article which is the growth, produce or manufacture of Cuba.

Sec. 515.808 Customs procedures; merchandise specified in section 515.204.—(a) With respect to merchandise specified in section 515.204, whether or not such merchandise has been imported into the United States, district directors of Customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone, unless either:

(i) The merchandise was imported prior to 12:01 a.m., February 7, 1962, or

(ii) A specific license pursuant to this part is presented, or

(iii) Instructions from the Foreign Assets Control, either directly or through the Federal Reserve Bank of New York, authorizing the transaction are received.

(b) Whenever a specific license is presented to a district director of Customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the district director of Customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the district director in respect of each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity, and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise the district director, or other authorized Customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the district director to the Foreign Assets Control.

(c) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no specific Foreign Assets Control license is required in connection therewith, the district director of Customs shall withhold action, thereon and shall advise such person to communicate directly with the Federal Reserve Bank of New York to request that instructions be issued to the district director to authorize him to take action with regard thereto.

XXVI. ATOMIC ENERGY COMMISSION REGULATIONS

The commodities subject to Atomic Energy Commission import and export licensing requirements are divided into four categories by AEC: (a) byproduct material; (b) source material; (c) production and utilization facilities; and (d) special nuclear material. Each of these categories is treated separately in one of the four parts of this appendix. The following instructions are sufficiently comprehensive to enable customs officers to act in most situations when confronted with importations or exportations of merchandise subject to Atomic Energy Commission Regulations. Additional material may be found in 10 CFR 30, 40, 50, and 70, and in Bureau circular letters which are issued occasionally to explain special procedures not covered in this appendix.

Part A—Importation and Exportation of Radioactive Byproduct Material (10 CFR 30)

1. *Definition—Byproduct material* is defined as any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material (10 CFR 30.4(b)). Byproduct material does *not* include cyclotron-produced or naturally-occurring radioactive materials, such as radium.

2. *License Requirements:*

a. *Imports*—No person subject to the regulations shall import byproduct material except as authorized in a specific or general license (10 CFR 30).

(1) A *general license* established in section 30.21(a)(2) authorizes the importation of the quantities of byproduct material specifically listed in section 30.72. The amount of material which may be imported or possessed under a general license varies according to whether it is contained in a sealed source. "Sealed source" means any byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material (10 CFR 30.4(1)). Section 30.72 contains the following listing:

Byproduct Material	Column No. 1 Not as a sealed source (microcurics)	Column No. 11 As a sealed source (microcurics)
Antimony (Sb 124)	1	10
Arsenic 76 (As 76)	10	10
Arsenic 77 (As 77)	10	10
Barium 140-Lanthanum 140 (BaLa 140)	1	10
Beryllium (Be 7)	50	50
Cadmium 109-Silver 109 (CdAg 109)	10	10
Calcium 45 (Ca 45)	10	10
Carbon 14 (C 14)	50	50
Cerium 144-Praseodymium (CePr 144)	1	10
Cesium-Barium 137 (CeBa 137)	1	10
Chlorine 36 (Cl 36)	1	10
Chromium 51 (Cr 51)	50	50
Cobalt 60 (Co 60)	1	10
Copper 64 (Cu 64)	50	50
Europium 154 (Eu 154)	1	10
Fluorine 18	50	50
Gallium 72 (Ga 72)	10	10
Germanium 71 (Ge 71)	50	50
Gold 198 (Au 198)	10	10
Balladium 103-Rhodium 103 (PdRh 103)	50	50
Phosphorus 32 (P 32)	10	10
Polonium 210 (Po 210)	0.1	1
Potassium 42 (K-42)	10	10
Praseodymium 143 (Pr 143)	10	10
Promethium 147 (Pm 147)	10	10
Rhenium 186 (Re 186)	10	10
Rhodium 105 (Rh 105)	10	10
Rubidium 86 (Rh 86)	10	10
Ruthenium 106-Rhodium 106 (RuRh 106)	1	10
Samarium 153 (Sm 153)	10	10
Scandium 46 (Sc 46)	1	10
Silver 105 (Ag 105)	1	10
Silver 111 (Ag 111)	10	10
Sodium 22 (Na 22)	10	10
Sodium 24 (Na 24)	10	10
Strontium 89 (Sr 89)	1	1
Strontium 90-Yttrium 90 (Sr Y)	0.1	1
Sulfur 35 (S 35)	50	50

Byproduct Material	Column No. 1 Not as a sealed source (microcurics)	Column No. 11 As a sealed source (microcurics)
Gold 199 (Au 199)	10	10
Hydrogen 3 (Tritium(H 3)	250	250
Indium 114 (In 114)	1	10
Iodine 131 (I 131)	10	10
Iridium 192 (Ir 192)	10	10
Iron 55 (Fe 55)	50	50
Iron 59 (Fe 59)	1	10
Lanthanum 140 (La 140)	10	10
Manganese 52 (Mn 52)	1	10
Manganese 56 (Mn 56)	50	50
Molybdenum 99 (Mo 99)	10	10
Nickel 59 (Ni 59)	1	10
Nickel 63 (Ni 63)	1	10
Niobium 95 (Nb 95)	10	10
Tantalum 182 (Ta 182)	10	10
Technetium 96 (Tc 96)	1	10
Technetium 99 (Tc 99)	1	10
Tellurium 127 (Te 127)	10	10
Tellurium 129 (Te 129)	1	10
Thallium 204 (Tl 204)	50	50
Tin 113 (Sn 113)	10	10
Tungsten 185 (W 185)	10	10
Vanadium 48 (V 48)	1	10
Yttrium 90 (Y 90)	1	10
Yttrium 91 (Y 91)	1	10
Zinc 65 (Zn 65)	10	10
Beta and/or Gamma omitting byproduct material not listed above	1	10

(2) *Specific License*—A person must possess a specific license to import byproduct material in excess of the quantities listed above. However, in this conection, 10 CFR 30.32(c) provides that "Except as otherwise provided in the license, a license [authorizing domestic activities] issued pursuant to the regulations in this port shall carry with it the right to import byproduct material. . . ."

(3) *Special Procedures for the Importation of Certain Byproduct Materials*—Bureau Circular Letter RES-3-PEN, February 1, 1960 (SC X-351) prescribes special procedures to be followed with respect to the importation of watches and clocks with luminescent faces, containing strontium 90.

b. *Exports*—Except for the exemptions and general licenses set out below, 10 CFR 30 requires that any person exporting byproduct material be specifically licensed by the AEC.

(1) An *exemption* in section 30.10 authorizes the export to any destination of tritium contained in luminous timepieces or contained in hands or dials for timepieces.

(2) An *exemption* in section 30.12 authorizes the export to any destination of lock illuminators, each containing not more than 15 millicuries of tritium, installed in automobile locks.

(3) A *general license* established in section 30.33(b) authorizes any domestic licensee of the AEC to export from the United States

any byproduct material covered by his license and having an atomic number from 3 to 83, inclusive, and

tritium when contained in luminous safety devices installed in aircraft and distributed domestically as a generally licensed item pursuant to section 30.24(j) to any foreign country except Cuba or Subgroup A countries or destinations listed in section 371.3 of the Comprehensive Export Schedule of the U.S. Department of Commerce (15 CFR 371.3).

(4) A *general license* established in section 30.33(c) authorizes any domestic licensee of the AEC to export from the United States byproduct material (having an atomic number from 3 to 83, inclusive) to Cuba to the extent that the byproduct material is contained in medicinal or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(5) A *general license* established in section 30.33(d) authorizes *any person* to export from the United States to any country or destination not listed in section 30.75 (*Schedule E*) 5,000 curies of tritium and 5,000 curies of polonium 210 in a calendar quarter. Not more than 1,000 curies of tritium may be exported by any person to any one country or destination in a calendar quarter and *not more than 100 curies of tritium may be exported by any person in a single shipment under this general license.* Exports under this general license may be in one or more of the following forms or products only:

(a) tritium-activated luminous paint;
(b) tritium-labeled organic compounds;
(c) tritiated accelerator targets;
(d) polonium 210 static eliminators;
(e) polonium 210 neutron sources;
(f) tritium or polonium 210 calibration standards;
(g) luminescent light sources;
(h) tritium sources for chromatography instruments;
(i) electron tubes; or
(j) tritium as a contaminant of Helium 3 in a concentration not to exceed 2.5 millicuries of tritium per liter of Helium 3. (Export shipments of helium gas are subject to the licensing authority and regulations of the Department of State. Issuance of a specific or general license by the Atomic Energy Commission for tritium contained in Helium 3 does not relieve any person from complying with the licensing requirements and regulations of the Department of State applicable to the export of Helium 3.)

Each person exporting byproduct material pursuant to this general license shall file with the collector of customs or the postmaster one copy, in addition to those otherwise required, of the shipper's export declaration covering each export, and mark such copy for transmittal to the Division of Licensing and Regulation of the U.S. Atomic Energy Commission, Washington, D.C. 20545.

Section 30.75 (*Schedule E*) of 10 CFR 30 lists the following countries and destinations:

Albania
Bulgaria
China, including Manchuria (and excluding Taiwan (Formosa)) (includes Inner Mongolia; the provinces of Tsinghai and Sikang; Sinkiang; Tibet; the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province)
Commnist-controlled area of Viet Nam
Cuba
Czechoslovakia
East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin)
Estonia
Hungary
Latvia
Lithuania
North Korea
Outer Mongolia
Poland
Rumania
Union of Soviet Socialist Republics

(6) *Special Instructions Concerning Shipments Exported Under a General License:*

(a) Licensees have been informed by AEC to place the symbol "AEC-GRO-10 CFR 30.33(b)" in the appropriate column on the shipper's export declaration whenever an export shipment is made under the provisions of the general license established in section 30.33(b), "AEC-GRO-10 CFR 30.33(c)" whenever the shipment is made under section 30.33(c), . . . and "AEC-GRO-10 CFR 30.33(d)" whenever the shipment is made under section 30.33(d).

(b) Customs officers should not presume that the showing of a domestic AEC license number, as well as the symbol "AEC-GRO-10 CFR 30.33(b)", "AEC-GRO-10 CFR 30.33(c)" . . . , or "AEC-GRO-10 CFR 30.33(d)" indicates that a specific license to export the material has been issued or was required. The atomic number of the material or the destination determines whether a specific license is required.

(c) The "atomic weight" of a radioactive byproduct material should not be confused with the "atomic number" of the same material. For example, an export declaration may describe an exportation of radioactive barium as "Barium 131". The atomic number of barium is 56. The figure 131 is the atomic weight or mass. Below is a list of the majority of those byproduct materials of atomic number 3-83 in common use today.

Byproduct Material	Symbol	Atomic Weight or Mass	Atomic Number
Antimony	Sb	122,124,125	51
Argon	A	37	18
Arsenic	As	76,77	33
Barium	Ba	131,133,140	56
Bismuth	Bi	210	83
Bromine	Br	82	35
Cadmium	Cd	115	48
Calcium	Ca	45	20
Carbon	C	14	6
Cerium	Ce	141,144	58
Cesium	Cs	134,137	55
Chlorine	Cl	36	17
Chromium	Cr	51	24
Cobalt	Co	58,60	27
Copper	Cu	64	29
Europium	Eu	152,154	63
Gallium	Ga	72	31
Gold	Au	198,199	79
Hafnium	Hf	181	72
Indium	In	114	49
Iodine	I	129,131	53
Iridium	Ir	192,194	77
Iron	Fe	55,59	26
Krypton	Kr	85	36
Lanthanum	La	140	57
Mercury	Hg	197,203	80
Molybdenum	Mo	99	42
Neodymium	Nd	147	60
Nickel	Ni	63	28
Niobium	Nb	95	41
Osmium	Os	191	76
Palladium	Pd	109	46
Phosphorus	P	32	15
Potassium	K	42	19
Praseodymium	Pr	142,143	59
Promethium	Pm	147	61
Rhenium	Re	186	75
Rubidium	Rb	86	37
Ruthenium	Ru	97,103,106	44
Samarium	Sm	153	62
Scandium	Sc	46	21
Selenium	Se	75	34
Silver	Ag	110,111	47
Sodium	Na	24	11
Strontium	Sr	89,90	38
Sulfur	S	35	16
Tantalum	Ta	182	73
Technetium	Tc	99	43
Thallium	Tl	204	81
Thulium	Tm	170	69
Tin	Sn	113	50
Tungsten (Wolfram)	W	185,187	74
Yttrium	Y	90,91	39
Zinc	Zn	65	30
Zirconium	Zr	95	40

Part B—Importation and Exportation of Radioactive Source Material (10 CFR 40)

1. *Source Material* is defined as (1) uranium or thorium, or any combination thereof, in any physical or chemical form; or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium or (iii) any combination thereof. Source materials does not include special nuclear material. (10 CFR 40.4(h))

Some of the more common ores, compounds, alloys, and products containing source material are as follows:

Ammonium di-uranate
Magnesium di-uranate
Magnesium uranyl acetate
Sodium di-uranate
Sodium uranate
Uranium dioxide (UO_2)
Uranium hexafluoride (UF_6)
Uranium metal
Uranium-nickel wire
Uranium oxide (U_3O_8)
Uranium sulphate
Uranium tetrafluoride (UF_4)
Uranium trioxide (UO_3)
Yellowcake (Uranium oxide)
Zinc uranyl acetate

Thorium chloride
Thorium fluoride
Thorium hydroxide
Thorium metal
Thorium nitrate
Thorium oxalate
Thorium oxide
Thorium powder
Thorium sulphate
Thorium tetrafluoride
Thorium-magnesium alloy
Thoriated tungsten wire
Thoriated tungsten electrodes
Thorotrast (medical preparation trade name)
Umbrathor (medical preparation trade name)
Incandescent gas mantles, containing thorium

Autonite
Brannerite
Carnotite
Monazite Sand
Pitchblende
Thorianite
Thorite
Torbornite
Uraninite

2. *License Requirements:*

a. *Imports*—10 CFR 40 povides that no person subject to the regulations shall import source material except as authorized in a specific or general license, or an exemption, issued by the AEC.

(1) A *general license* established in 10 CFR 40.22 (as amplified by 40.41(c) authorizes the importation at any one time of up to 15 pounds of source material by pharmacists, physicians, commercial and industrial firms, research institutions, educational institutions, or medical institutions.

(2) *Exemptions* established in 10 CFR 40 authorize any person to import:

(a) source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20 of 1 percent (0.05 percent) of the mixture, compound, solution, or alloy. (10 CFR 40.13(a))

(b) unrefined and unprocessed ore containing source material. (10 CFR 40.13(b))

(c) any quantity of thorium contained in (i) incandescent gas mantles; (ii) vacuum tubes; (iii) welding rods; or (iv) rare earth metals and compounds, mixtures and products containing not more than 0.25% by weight thorium, uranium or any combination of these. (10 CFR 40.13(c)(1))

(d) source material contained in the following products (i) glazed ceramic tableware, provided that the glaze contains not more than 20 percent source material; (ii) glassware containing not more than 10 percent source material; but not including glass brick, pane glass, ceramic tile or other glass or ceramic used in construction. (10 CFR 40.13(c)(2))

(e) photographic film, negatives, and prints containing uranium or thorium. (10 CFR 40.13(a)(3))

(f) any finished product or part fabricated of, or containing tungsten or magnesium-thorium alloys: *Provided,* that the thorium content of the alloy does not exceed 4 percent by weight. (10 CFR 40.13(c)(4))

(g) uranium contained in aircraft counterweights installed in aircraft, . . . rockets, projectiles, or missiles; provided that any such counterweight has been impressed with a statement, clearly legible after plating, which states, "Caution - Radioactive Material - Uranium". (10 CFR 40.13(c))5))

(h) uranium used as shielding constituting part of any shipping container which is conspicuously and legibly impressed with the legend "CAUTION—RADIOACTIVE SHIELDING—URANIUM", and which meets the specifications for containers for radioactive materials prescribed by section 78.250, Specification 55, Part 78 of the regulations of the Interstate Commerce Commission (49 CFR 78.250).

Further, section 40.41(c) provides that ". . . except as otherwise provided in the license, a license (authorizing domestic activities) issued pursuant to the regulations in this part shall carry with it the right to . . . import source material. . . ."

b. *Exports*—10 CFR 40 provides that no person subject to the regulations shall export source material except as authorized in a specific or general license issued by AEC.

(1) A *general license,* established in section 40.23(a), designated AEC-GRO-SMA, authorizes the export at any one time of up to three (3) pounds of source material from the United States to any foreign country or destination *except* Cuba or countries or areas listed in section 40.90 of 10 CFR 40. Each person exporting source material pursuant to this general license shall file with the collector of customs or the postmaster one copy, in addition to those otherwise required, of the shipper's export declaration covering each export, and mark such copy for transmittal to the Division of Licensing and Regulations of the U.S. Atomic Energy Commission, Washington, D.C. 20545.

(2) A *general license,* established in section 40.23(b), designated AEC-GRO-SMB, authorizes the export of incandescent gas mantles containing thorium, without regard to quantity, from the United States to any foreign country or destination *except* Cuba or countries or destinations listed in section 40.90 of 10 CFR 40.

(3) A *general license,* established in 40.23(c), designated AEC-GRO-SMC, authorizes the export from the United States to any foreign country or destination, except countries or destinations listed in section 40.90, of uranium in the form of counterweights installed in aircraft,

. . . rockets, projectiles, or missiles, provided that such counterweights have been manufactured under a specific license issued by the Commission and have been impressed with a statement, clearly legible after plating, which states: "CAUTION—RADIOACTIVE MATERIAL—URANIUM."

(4) An *exemption*, established in 10 CFR 40, authorizes any person to export source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20 of 1 percent (0.05%) of the mixture, compound, solution or alloy. (10 CFR 40.13(a))

(5) *Specific Licenses*—In those cases where a specific license is required for the exportation of source material, the procedure set forth below will be followed:

(a) A prospective exporter must file an application for a specific license to export source material on AEC Form 7 (license application). If approved, a license on AEC Form 250 will be issued.

(b) The export license must be presented to the collector of customs at the port of exit from the United States, or in the event that the items licensed are mailed, to the postmaster at the post office of mailing. The exporter must also present a shipper's export declaration (Department of Commerce Form 7525-V) in the number of copies required under current Department of Commerce instructions.

(c) The export license shall not be accepted unless signed by the licensee in the space provided on the reverse side of AEC Form 250.

(d) Before permitting lading for export, customs officers shall in all cases when feasible, check numbers and symbols appearing on the containers against the export declaration. If discrepancies are found and on the basis of information received or circumstances attending the transaction, the collector believes that opening of the containers and verification of the contents is desirable, such action shall be taken in accordance with Bureau Circular TEC-3-TS, July 22, 1959 (BCL X-220) Subject: Examination and safehandling of radioactive material, and TEC-3-TS, November 23, 1959 (BCL X-220 S1).

(e) After permission to lade the shipment for export has been granted, the collector of customs or the postmaster shall indicate on the reverse side of AEC Form 250 whether complete or partial shipment of the items licensed was made. If a complete shipment was made the collector of customs or the postmaster shall sign the export license in the space provided on the reverse side and return the license to Atomic Energy Commission, Washington, D.C. 20545.

It is not necessary to forward a copy of the shipper's export declaration for shipments of source materials under a specific license to the AEC. In these cases the export declaration is distributed in accordance with instructions on the reverse side of the form.

(f) In the event a partial shipment is made and the licensee wishes to complete shipment of the unshipped balance, the collector of customs should retain the export license until shipment is complete or the license has expired, whichever is earlier. It should then be returned to Atomic Energy Commission, Washington, D.C. 20545.

Part C—Importation and Exportation of Facilities for the Production and Utilization of Fissionable Material (10 CFR 50)

1. *Definitions:*

a. *Production facility* is defined as:

(1) any nuclear reactor designed or used primarily for the formation of plutonium or uranium 233;

(2) any facility designed or used for the separation of the isotopes of uranium or the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(3) any facility designed or used for the processing of irradiated materials containing special nuclear material, except (a) laboratory scale facilities designed or used for experimental or analytical purposes, and (b) facilities in which the only special nuclear materials contained in the irradiated material to be processed are uranium enriched in the isotope U-235 and plutonium produced by the irradiation, if the material processed contains not more than 10-6 grams of plutonium per gram of U-235 and the fission product activity is not in excess of 0.25 millicuries of fission products per gram of U-235.

b. A *utilization facility* is defined as any nuclear reactor other than one designed or used primarily for the formation of plutonium or V-233.

c. Radiation detection devices, instruments and meters are *not* included in the definitions of either production or utilization facilities. The importation or exportation of such items is controlled by current regulations of the Bureau of Foreign Commerce and not by AEC.

2. *Licensing Requirements:*

a. *Imports*—10 CFR 50 provides that no person subject to the regulations shall import a production or utilization facility except as authorized in a *specific* license issued by AEC.

b. *Exports:*

(1) *General License*—10 CFR 50 provides that no person subject to the regulations shall export a production or utilization facility except as authorized in a specific license.

(2) *Specific Licenses*—With respect to exportation of production or utilization facilities the following procedure will be followed:

(a) A prospective exporter must file an application, by letter, for a specific license to export production or utilization facilities. If approved, a license on AEC-250 will be issued.

(b) The export license must be presented to the collector of customs at the port of exit of the United States. The exporter must also present a shipper's export declaration (Department of Commerce Form 7525-V) in the number of copies required under current Department of Commerce instructions.

(c) The export license shall not be accepted unless signed by the licensee in the space provided on the reverse of AEC Form 250.

(d) Before permitting lading for exportation, customs officers shall in all cases, when feasible, check numbers and symbols appearing on the containers against the export declaration. If discrepancies are found and on the basis of information received or circumstances attending the transaction, the collector believes that opening of the containers and verification of the contents is desirable, such action should be taken. We have been assured that no physical danger to individuals is involved in the examination of production or utilization facilities unless the containers are specifically so marked. If the containers are marked to indicate that radioactive materials are present, Bureau Circular TEC-3-TS, July 22, 1959 (BCL X-220), Subject: Examination and Handling of Radioactive Material, and TEC-3-TS, November 23, 1959 (BCL X-220) S1), should be followed if the containers are opened.

(e) After permission to lade the shipment for export has been granted, the collector of customs shall indicate on the reverse side of AEC Form 250 whether complete or partial shipment of the items licensed was made. If a complete shipment was made the collector of customs shall sign the export license in the space provided on the reverse side and return the license to Atomic Energy Commission, Washington, D.C. 20545.

It is not necessary to forward a copy of the shipper's export declaration for shipments of production or utilization facilities to the AEC. In these cases the export declaration is distributed in accordance with instructions on the reverse side of Department of Commerce Form 7525-V.

(f) In the event a partial shipment is made and the licensee wishes to complete shipment of the unshipped balance, the collector of customs should retain the export license until shipment is complete or the license has expired, whichever is earlier. It should then be returned to Atomic Energy Commission, Washington, D.C. 20545.

Part D—Importation and Exportation of Special Nuclear Material (10 CFR 70)

1. *Definitions:*

a. *Special nuclear material* is defined as (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the AEC, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, determines to be special nuclear material; or (2) any material artificially enriched by any of the foregoing. (10 CFR 70.4(m))

b. An *agreement for cooperation* is an agreement between the United States and a foreign nation, a group of nations, or regional defense organization, which establishes a framework within which cooperation in the atomic energy field may take place.

2. *AEC Licensing Requirements:*

a. Both the importation and exportation of special nuclear material is prohibited except under an Agreement for Cooperation. Imports and exports are accomplished on a government to government basis. No import or export licenses are issued.

b. Any attempt to import or export special nuclear material, other than under an agreement for cooperation, should be immediately reported to the Atomic Energy Commission.

c. Special instructions for customs officers concerning the importation or exportation of government-to-government shipments of special nuclear material can be found in Bureau Circular RES-3-MI, March 20, 1962.

XXVII. NATIONAL DEFENSE, APPENDIX REGULATIONS—TRANSPORTATION ORDERS OF UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION (32A CFR, Ch. VII)

T-1 (Amended)—Shipping Restrictions; Subgroup A, Hong Kong, Macao, and Cuba

Transportation Order T-1 (15 F.R. 8777, Dec. 8, 1950), as amended (26 F.R. 2711, March 31, 1961; 26 F.R. 5927, July 1, 1961; 27 F.R. 9102, Sept. 13, 1962), is hereby amended to read as follows:

This order as amended is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section 101 of the Defense Production Act of 1950, as amended. Consultation with industry in advance of the issuance of this order has been rendered impracticable by the need for immediate issuance.

Sec.
1. Prohibited Transportation and discharge.
2. Applications for adjustment or exceptions.
3. Reports.
4. Records.
5. Defense against claims for damages.
6. Violations.

AUTHORITY: Secs. 1 to 6 issued under sec. 704, 64 Stat. 816, as amended; 50 U.S.C. App. 2154, as amended; Interpret or apply secs. 101, 705, 64 Stat. 799, as amended; 50 U.S.C. App. 2071; E.O. 10480, 18 F.R. 4939, 3 CFR, 1953 Supp.

Sec. 1. Prohibited transportation and discharge.—No person shall transport in any ship documented under the laws of the United States or in any aircraft registered under the laws of the United States any commodity at the time on the Positive List (as amended from time to time) of the Comprehensive Export Schedule of the Bureau of International Commerce, Department of Commerce (15 CFR Parts 368-399), any article designated as arms, ammunition, and implements of war in the United States Munitions List (22 CFR Parts 121-128), or any commodity, including fissionable materials controlled for export under the Atomic Energy Act of 1954 (10 CFR Parts 40 and 50), to any destination at the time in Subgroup A of the Comprehensive Export Schedule (15 CFR 371.3(a)), to Hong Kong, Macao, or Cuba, and no person shall discharge from any such ship or any such aircraft any such commodity or article at any such port or place or at any other port or place in transit to any such destination, unless a validated export license under the Export Control Act of 1949, as amended, under section 414 of the Mutual Security Act of 1954, as amended, or under the Atomic Energy Act of 1954, as amended, has been obtained for the shipment, or unless authorization for the shipment has been obtained from the Under Secretary for Transportation. This prohibition applies to the owner of the ship or aircraft, the master of the ship or aircraft, or any other officer, employee or agent of the owner of the ship or aircraft who participates in the transportation. The consular officers of the United States are furnished with current information as to commodities on the Positive List and will advise whether commodities are currently on that List.

Sec. 2. Applications for adjustment or exceptions.—Any person affected by any provisions of this order may file an application for an adjustment or exception upon the ground that such provision works an exceptional hardship upon him, not suffered by others, or that its enforcement against him would not be in the interest of the national defense program. Such an application may be made by letter or telegram addressed to the Under Secretary for Transportation, Washington, D.C. 20230, reference T-1. If authorization is requested, any such application should specify in detail the material to be shipped, the name and address of the shipper and of the recipient of the shipment, the ports or places from which and to which the shipment is being made and the use to which the material shipped will be put. The application should also specify in detail the facts which support the applicant's claim for an exception.

Sec. 3. Reports.—Persons subject to this order shall submit such reports to the Under Secretary for Transportation as he shall require, subject to the terms of the Federal Reports Act.

Sec. 4. Records.—Each person participating in any transaction covered by this order shall retain in his possession, for at least two yers, records of shipments in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

Sec. 5. Defense against claims for damages.—No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

Sec. 6. Violations.—Any person who wilfully violates any provisions of this order or wilfully conceals a material fact or furnishes false information in the course of operation under this order is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person, denying him the privileges generally accorded under this order.

This order shall be effective on the date of its publication in the Federal Register.

T-2—Shipping Restrictions; North Korea and the Communist-Controlled Area of Viet Nam

Sec.
1. Prohibition of movement of American carriers to North Korea or to the Communist-controlled area of Viet Nam.
2. Prohibition on transportation of goods destined for North Korea or the Communist-controlled area of Viet Nam.
3. Persons affected.
4. Reports.
5. Records.
6. Defense against claims for damages.
7. Violations.

AUTHORITY: Secs. 1 to 7 issued under sec. 704, 64 Stat. 816, as amended; 50 U.S.C. App. 2154[1] Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U.S.C. App. 2071; E.O. 10480, 18 F.R. 4939, CFR, 1953. Supp., and sec. 4(a) Public Law 89-670, 80 Stat. 933; 49 U.S.C. 1653.

SOURCE: Sections 1 to 7 contained in Transportation Order T-2 (Amended), 37 FR 25040, Nov. 25, 1972, unless otherwise noted.

Sec. 1. Prohibition of movement of American carriers to North Korea or to the Communist-controlled area of Viet Nam.—No person shall sail, fly, navigate, or otherwise take any ship documented under the laws of the United States or any aircraft registered under the laws of the United States to North Korea or to the Communist-controlled area of Viet Nam.

Sec. 2. Prohibition on transportation of goods destined for North Korea or the Communist-controlled area of Viet Nam.—No person shall transport, in any ship documented under the laws of the United States, or in any aircraft registered under the laws of the United States, to North Korea or to the Communist-controlled area of Viet Nam, any material, commodity, or cargo of any kind. No person shall take on board any ship documented under the laws of the United States or any aircraft registered under the laws of the United States any material, commodity, or cargo of any kind if he knows or has reason to believe that the material, commodity, or cargo is destined, directly or indirectly for North Korea or for the Communist-controlled area of Viet Nam. No person shall discharge from any ship documented under the laws of the United States or from any aircraft registered under the laws of the United States, at any place other than the port where the cargo was loaded, or within territory under the jurisdiction of the United States any material, commodity, or cargo of any kind which he knows or has reason to believe is destined for North Korea or for the Communist-controlled area of Viet Nam.

Sec. 3. Persons affected.—The prohibitions of this order apply to the owner of the ship or aircraft, to the master of the ship or aircraft, and to any other officer, employee, or agent of the owner of the ship or to any other person who participates in the prohibited activities.

Sec. 4. Reports.—Persons subject to this order shall submit such reports to either the Assistant Secretary of Commerce for Domestic and International Business, Assistant Secretary of Commerce for Maritime Affairs, or the Assistant Secretary of Transportation for Policy and International Affairs, for, respectively, cargoes, vessels or aircraft as shall be required, subject to the terms of the Federal Reports Act.

Sec. 5. Records.—Each person participating in any transaction covered by this order shall retain in his possession, for at least 2 years, records of voyages and shipments in sufficient detail to permit an audit that will determine for each transaction that the provisions of this order have been met. This provision does not require any particular accounting method and does not require alteration of the system customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

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[1] P.L. 92-325, approved June 30, 1972, extended the Defense Production Act of 1950, as amended, to June 30, 1974.

Sec. 6. Defense against claims for damages.—No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this order or any provision, thereof, notwithstanding that this order or such provision shall thereafter be declared by judicial or other competent authority to be invalid.

Sec. 7. Violations.—Any person who willfully violates any provisions of this order, or willfully conceals a material fact, or furnishes false information in the course of operation under this order, shall, upon conviction, be punished by fine or imprisonment, or both. In addition, administrative action may be taken against any such person, denying him the privileges generally accorded under this order.

XXVIII. BONA FIDE MOTOR-VEHICLE MANUFACTURERS

Regulations of the Department of Commerce, under the Automotive Products Trade Act of 1965 (Public Law 89-283, 79 Stat. 1016) relating to determinations of Bona Fide Motor-Vehicle Manufacturers (15 CFR 315.1-315.5).

Sec. 315.1 Scope and purpose.—The purpose of this part is to set forth regulations implementing headnote 2 to subpart B, part 6, schedule 6 of the Tariff Schedules of the United States as proclaimed by Proclamation No. 3682 of October 21, 1965 (3 CFR 140 (1964-65 Comp.)), issued pursuant to the Automotive Products Trade Act of 1965 (19 U.S.C. sec. 2031), by establishing a procedure under which a person may apply to be determined a bona fide motor-vehicle manufacturer. Under headnote 2 to Subpart B, part 6, schedule 6 of the Tariff Schedules of the United States, whenever the Secretary of Commerce has determined a person to be a bona fide motor-vehicle manufacturer, such person is eligible to obtain duty-free importation of certain Canadian articles and to issue certain orders, contracts, or letters of intent under or pursuant to which other persons, not themselves bona fide motor-vehicle manufacturers, may obtain duty-free treatment for such Canadian articles. The responsibilities of Secretary of Commerce relating to the development, maintenance and publication of a list of bona fide motor-vehicle manufacturers and the authority to promulgate rules and regulations pertaining thereto, have been delegated to the Deputy Assistant Secretary for Domestic Commerce, Department of Commerce, with power of redelegation.

Sec. 315.2 Definitions.—For the purposes of the regulations in this part and the forms issued to implement it:

(a) "Act" means the Automotive Products Trade Act of 1965 (79 Stat. 1016, 19 U.s.C. secs. 2001-2033).

(b) Deputy Assistant Secretary means the Deputy Assistant Secretary for Domestic Commerce of the Department of Commerce, or such official as may be designated by him to act in his behalf.

(c) "Motor vehicle" means a motor vehicle of a kind described in item 692.05 or 692.10 of subpart B, part 6, schedule 6 of the Tariff Schedules of the United States (excluding an electric trolley bus and a three-wheeled vehicle) or an automobile truck tractor.

(d) "Bona fide motor-vehicle manufacturer" means a person who, upon application to the Deputy Assistant Secretary under this part is determined by the Deputy Assistant Secretary to have produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application, and to have had as of such date installed capacity in the United States to produce 10 or more complete motor vehicles per 40-hour week. A person shall only be regarded as having had the capacity to produce a complete motor vehicle if his operations included the assembly of two or more major components (e.g., the attachment of a body to a chassis) to create a new motor vehicle ready for use.

(e) "Person" includes any individual, corporation, partnership, association, company, or any other kind of organization.

(f) "United States" includes only the States, the District of Columbia, and Puerto Rico.

Sec. 315.3 Application.—Any person in the United States desiring to be determined a bona fide motor-vehicle manufacturer shall apply to the Deputy Assistant Secretary by filing two copies of Form DIB-964 in accordance with the instructions set forth in the form and in this part. Application forms may be obtained from the Deputy Assistant Secretary, field offices of the U.S. Department of Commerce, or from U.S. District Directors of Customs, and should be mailed or delivered to the:

Transportation and Capital Equipment Division, OBRA
Bureau of Domestic Commerce U.S. Department of
Commerce, Washington, D.C. 20230.

Sec. 315.4 Determination by the Deputy Assistant Secretary for Domestic Commerce.—(a) As soon as practicable after receipt of the application, the Deputy Assistant Secretary shall determine whether an applicant has produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application and as of such date, had installed capacity in the United States to produce 10 or more complete motor vehicles per 40-hour week. The Deputy Assistant Secretary may request such additional data from an applicant as he may deem appropriate to establish whether the applicant has satisfied the requirements of this part.

(b) A determination by the Deputy Assistant Secretary under this part shall be effective for a 12-month period to begin on the date as of which the Deputy Assistant Secretary determines that the applicant qualified under this part. Within 60 days prior to the termination of such period, a bona fide motor-vehicle manufacturer may apply for another determination under this part.

(c) The Deputy Assistant Secretary will promptly notify each applicant in writing of the final action taken on his application.

Sec. 315.5 Maintenance and publication of a list of bona fide motor-vehicle manufacturers.—The Deputy Assistant Secretary shall maintain, and publish from time to time in the FEDERAL REGISTER, a list of the names and addresses of bona fide motor-vehicle manufacturers, and the effective dates for each determination.

XXIX. POLITICAL ITEMS, COINS, AND OTHER NUMISMATIC ITEMS—HOBBY PROTECTION ACT (87 STAT. 686; 15 U.S.C. 2101 *ET SEQ.*)

Regulations of the Federal Trade Commission relating to the importation of political items, coins, and other numismatic items, Code of Federal Regulations, Title 16, Sections 304.1-304.6.

Sec. 304.1 Terms defined.—(a) "Act" means the Hobby Protection Act (approved November 29, 1973; Pub. L. 93-167, 87 Stat. 686, (15 U.S.C. 2101, et seq.)).

(b) "Commerce" has the same meanings as such term has under the Federal Trade Commission Act.

(c) "Commission" means the Federal Trade Commission.

(d) "Imitation numismatic item" means an item which purports to be, but in fact is not, an original numismatic item or which is a reproduction, copy, or counterfeit of an original numismatic item. Such term includes an original numismatic item which has been altered or modified in such a manner that it could reasonably purport to be an original numismatic item other than the one which was altered or modified. The term shall not include any reissue or re-strike of any original numismatic item by the United States or any foreign government.

(e) "Imitation political item" means an item which purports to be, but in fact is not, an original political item, or which is a reproduction, copy or counterfeit of an original item.

(f) "Original numismatic item" means anything which has been a part of a coinage or issue which has been used in exchange or has been used to commemorate a person, object, place, or event. Such term includes coins, tokens, paper money, and commemorative medals.

(g) "Original political item" means any political button, poster, literature, sticker, or any advertisement produced for use in any political cause.

(h) "Person" means any individual, group, association, partnership, or any other business entity.

(i) "Regulations" means any or all regulations prescribed by the Federal Trade Commission pursuant to the Act.

(j) "United States" means the States, the District of Columbia, and the Commonwealth of Puerto Rico.

Sec. 304.2 General requirement.—Imitation political or numismatic items subject to the Act shall be marked in conformity with the requirements of the Act and the regulations promulgated thereunder. Any violation of these regulations shall constitute a violation of the Act and of the Federal Trade Commission Act.

Sec. 304.3 Applicability.—Any person engaged in the manufacturing, or importation into the United States for introduction into or distribution in commerce, of imitation political or imitation numismatic items shall be subject to the requirements of the Act and the regulations promulgated thereunder.

Sec. 304.4 Application of other law or regulation.—The provisions of these regulations are in addition to, and not in substitution for or limitation of, the provisions of any other law or regulation of the United States (including the existing statutes and regulations prohibiting the reproduction of genuine currency) or of the law or regulation of any State.

Sec. 304.5 Marking requirements for imitation political items.—(a) An imitation political item which is manufactured in the United States, or imported into the United States for introduction into or distribution in commerce, shall be plainly and permanently marked with the calendar year in which such item was manufactured.

(b) The calendar year shall be marked upon the item legibly, conspicuously and nondeceptively, and in accordance with the further requirements of these regulations.

(1) The calendar year shall appear in arabic numerals, shall be based upon the Gregorian calendar and shall consist of four digits.

(2) The calendar year shall be marked on either the obverse or the reverse surface of the item. It shall not be marked on the edge of the item.

(3) An imitation political item of incusable material shall be incused with the calendar year in sans-serif numerals. Each numeral shall have a vertical dimension of not less than two millimeters (2.0 mm) and a minimum depth of three-tenths of one millimeter (0.3 mm) or one-half (1/2) the thickness of the reproduction whichever is the lesser. The minimum total horizontal dimension for the four numerals composing the calendar year shall be six millimeters (6.0 mm).

(4) An imitation political button, poster, literature, sticker, or advertisement composed of nonincusable material shall be imprinted with the calendar year in sans-serif numerals. Each numeral shall have a vertical dimension of not less than two millimeters (2.0 mm). The minimum total horizontal dimension of the four numerals composing the calendar year shall be six millimeters (6.0 mm).

Sec. 304.6 Marking requirements for imitation numismatic items.—(a) An imitation numismatic item which is manufactured in the United States, or imported into the United States for introduction into or distribution in commerce, shall be plainly and permanently marked "COPY".

(b) The word "COPY" shall be marked upon the item legibly, conspicuously, and nondeceptively, and in accordance with the further requirements of these regulations.

(1) The word "COPY" shall apper in capital letters, in the English language.

(2) The word "COPY" shall be marked on either the obverse or the reverse surface of the item. It shall not be marked on the edge of the item.

(3) An imitation numismatic item of incusable material shall be incused with the word "COPY" in sans-serif letters having a vertical dimension of not less than two milli-

meters (2.0 mm) and a minimum depth of three-tenths of one millimeter (0.3 mm) or to one-half (1/2) the thickness of the reproduction, whichever is the lesser. The minimum total horizontal dimension of the word "COPY" shall be six millimeters (6.0 mm).

(4) An imitation numismatic item composed of nonincusable material shall be imprinted with the word "COPY" in sans-serif letters having a vertical dimension of not less than two millimeters (2.0 mm). The minimum total horizontal dimension of the word "COPY" shall be six millimeters (6.0 mm).

XXX. IMPORTATION OF EXPLOSIVE MATERIALS

Regulations of the Bureau of Alcohol, Tobacco and Firearms relating to the importation of explosive materials, Code of Federal Regulations, Title 26, Sections 181.1-181.163.

Subpart A—Introduction

Sec. 181.1 Scope of regulations.—(a) *In general.* The regulations contained in this part relate to commerce in explosives and are promulgated to implement title XI, Regulation of Explosives (18 U.S.C. chapter 40; 84 Stat. 952), of the Organized Crime Control Act of 1970 (84 Stat. 922).

(b) *Procedural and substantive requirements.* This part contains the procedural and substantive requirements relative to:

(1) The interstate or foreign commerce in explosive materials;

(2) The licensing of manufacturers and importers of, and dealers in, explosive materials;

(3) The issuance of user permits;

(4) The conduct of business by licensees and operations by permittees;

(5) The storage of explosive materials;

(6) The records and reports required of licensees and permittees;

(7) Relief from disabilities under this part; and

(8) Exemptions, unlawful acts, penalties, seizures, and forfeitures.

(c) *Persons engaged in business or operations on October 15, 1970.* This part fully applies to persons engaged on October 15, 1970, in business or operations requiring a license or permit under this part who have filed an application for such license or permit prior to February 12, 1971, and who are continuing such business or operations pending final action on such application pursuant to section 1105(c) of the Organized Crime Control Act of 1970 (84 Stat. 960).

Sec. 181.2 Relation to other provisions of law.—The provisions in this part are in addition to, and are not in lieu of, any other provisions of law, or regulations, respecting commerce in explosive materials. For regulations applicable to commerce in firearms and ammunition, see Part 178 of this chapter. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), and regulations in Part 180 of this chapter and in Parts 121-128 of Title 22, Code of Federal Regulations. For statutes applicable to nonmailable materials, see 18 U.S.C. 1716 and regulations thereunder. For statutes applicable to water quality standards, see 33 U.S.C. 1171(b).

Subpart B—Definitions

Sec. 181.11 Meaning of terms.—When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The term "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Act. Chapter 40 of title 18 of the United States Code.

Ammunition. Small arms ammunition of cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and shall include percussion caps and 3/32-inch pyrotechnic safety fuses. The term shall not include black powder.

Approved storage facility. A facility for the storage of explosive materials conforming to the requirements of this part and covered by a license or permit issued under this part.

Army-type structure. A structure approved by the Department of Defense for the storage of explosive materials.

Assistant Regional Commissioner. An Assistant Regional Commissioner, Alcohol, Tobacco, and Firearms, who is responsible to, and functions under the direction and supervision of, a Regional Commissioner of Internal Revenue.

Blasting agent. Any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided,* That the finished product, as mixed for use or shipment, cannot be denoted by means of a numbered 8 test blasting cap when unconfined. A numbered 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength.

Business premises. When used with respect to a manufacturer, importer or dealer the property on which explosive materials are or will be manufactured, imported, stored or distributed. Such premises shall include the property where the records of a manufacturer, importer or dealer are or will be maintained if different than the premises where explosive materials are or will be manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are or will be received or stored. Such premises shall include the property where the records of such user are or will be maintained if different than the premises where explosive materials are or will be received or stored.

Commissioner. The Commissioner of Internal Revenue.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices or restraints of trade, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Customs officer. Any officer of the United States Customs Service or any agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a Regional Commissioner of Customs, or by another principal Customs officer under delegated authority, to perform the duties of an officer of the United States Customs Service.

Dealer. Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

Director. The Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Treasury Department, Washington, D.C. 20224.

Distribute. To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Explosive materials. Explosives, blasting agents, and detonators. Such materials shall include all items in the Explosives List provided for in section 181.23.

Explosives. Any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Fugitive from justice. Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid imprisonment.

Importer. Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Inhabited building. Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Internal revenue region. An internal revenue region under the jurisdiction of a Regional Commissioner of Internal Revenue.

Interstate or foreign commerce. Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer. A dealer licensed under the provisions of this part.

Licensed importer. An importer licensed under the provisions of this part.

Licensed manufacturer. A manufacturer licensed under the provisions of this part to engage in the business of manufcturing explosive materials for purposes of sale or distribution or for his own use.

Licensed manufacturer-limited. A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Licensee. Any importer, manufacturer, or dealer licensed under the provisions of this part.

Manufacturer. Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Manufacturer-limited. Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Permittee. Any user of explosives for lawful purpose, who has obtained a user permit under the provisions of this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Regional Commissioner. A Regional Commissioner of Internal Revenue.

Service Center Director. A director of an internal revenue service center.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides or maintains his home. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

U.S.C. The United States Code.

User-limited permit. A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

User permit. A permit issued to a person authorizing him (1) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (2) to transport explosive materials so acquired in interstate or foreign commerce.

Sec. 181.41 General.—(a) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who intends to acquire for use explosive materials from a licensee in a

State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, shall obtain a permit under the provisions of this subpart: *Provided*, That it is not necessary to obtain such permit if the user intends to lawfully purchase explosive materials from a licensee in a State contiguous to the user's State of residence and the user's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State.

(b) Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer shall file an application, with the required fee (see section 181.42), with the Service Center Director for the internal revenue district in which his business premises are to be located. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials: *Provided*, That a seprate license shall not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part: *Provided further*, That a separate license shall not be required of a licensed manufacturer with respect to his on site manufacturing. A license shall, subject to the provisions of law, entitle the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license (and in the case of a licensed manufacturer, on site within the same internal revenue region), for the period stated on the license: *Provided*, That it shall not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in explosive materials.

(c) Except as provided in paragraph (a) of this section, each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, shall file an application, with the required fee (see section 181.43), with the Service Center Director for the internal revenue district in which is located his legal residence or principal place of business. A permit shall, subject to the provisions of the Act and other applicable provisions of law, entitle the permittee to acquire, transport, ship, and receive in interstate or foreign commerce explosive materials of the class authorized by his permit. Only one permit is required under the provisions of this part.

Sec. 181.104 Certified copy of license or permit.—Except as provided in section 181.49(a), each person issued a license or permit under the provisions of this part shall be furnished together with his license or permit a copy thereof for his certification. If such a person desires an additional copy of his license or permit for certification and for use pursuant to section 181.103, he shall:

(a) Make a reproduction of the copy of his license or permit and execute the certification thereon, or

(b) Make a reproduction of his license or permit, enter upon such reproduction the statement: "I certify that this ia a true copy of a (*insert the word license or permit*) issued to me to engage in the business or operations specified in Item 5" and sign his name adjacent thereto, or

(c) Submit a request, in writing, for certified copies of his license or permit to the Assistant Regional Commissioner for the Internal Revenue region in which the license or permit was issued. The request shall set forth the name, trade name (if any), and address of the licensee or permittee and the number of copies of the license or permit desired. There shall be imposed a fee of $1 for each copy of a license or permit issued by the Assistant Regional Commissioner under the provisions of this paragraph. Fee payment shall accompany each such request for additional copies of a license or permit. Such fee shall be paid by (1) cash, or (2) money order or check made payable to the Internal Revenue Service.

Sec. 181.105 Distributions to nonlicensees and nonpermittees.—(a) The provisions of this section shall apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(b) Except as provided in paragraph (c) of this section, a licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee or nonpermittee furnishes to the licensee the explosives transaction record, Form 4710, required by section 181.126. Disposition of Form 4710 shall be made in accordance with the provisions of section 181.126(c).

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or distribute explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State and the purchaser and the licensee have, prior to the distribution of the explosive materials, complied with all the requirements of paragraphs (b), (e), and (f) of this section applicable to intrastate transactions occurring on the licensee's business premises.

(d) A licensed manufacturer-limited or a permittee may dispose of surplus stocks of explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which such licensee's or permittee's business premises or operations are located, or is a resident of a State contiguous to the State in which the licensee's or permittee's place of business or operations are located, and if the requirements of paragraphs (b), (c), (e), and (f) of this section are fully met.

(e) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to a business entity shall verify the identity of the representative or agent of the business entity who is authorized to acquire explosive materials on behalf of such business entity. Each business entity acquiring explosive materials shall furnish the licensed importer, licensed manufacturer, or licensed dealer with a current certified list of the names of representatives or agents authorized to acquire explosive materials on behalf of such business entity. A licensed importer, licensed manufacturer, or licensed dealer shall not distribute explosive materials to a business entity on the order of a person whose name does not appear on such list.

(f) Where the possession of explosive materials is transferred at the distributor's premises, the distributor shall in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing such possession. Prior to the delivery at the distributor's premises of explosive materials to an employee of a nonlicensee or nonpermittee, or to an employee of a carrier transporting explosive materials to a nonlicensee or nonpermittee, the distributor so delivering explosive materials shall obtain an executed Form 4721 from such employee before releasing the explosive materials. The Form 4721 shall contain all of the information as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

Sec. 181.106 Certain prohibited distributions.—(a) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute explosive materials to any person not licensed or holding a permit under this part, who the licensee knows or has reason to believe does not reside in the State in which the licensee's place of business is located: *Provided,* That the foregoing provisions of this paragraph shall not apply to the distribution of explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located if the requirements of section 181.105(c) are fully met.

(b) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute any explosive material to any person (1) who the importer, manufacturer, or dealer knows is less than 21 years of age, or (2) in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution, or (3) who the importer, manufacturer, or dealer has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into such State or to receive explosive materials in such State, or (4) who the importer, manufacturer, or dealer has reasonable cause to believe intends to use such explosive materials for other than a lawful purpose.

(c) A licensed importer, licensed manufacturer, licensed manufacturer-limited, or licensed dealer shall not distribute any explosive materials to any person knowing or having reason to believe that such person (1) is, except as provided under section 181.142 (d) and (e), under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of marihuana (as defined in section 4761 of the Internal Revenue Code of 1954; 26 U.S.C. 4761) or any depressant or stimulant drug (as defined in section 201 (v) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(v)), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954; 26 U.S.C. 4731(a)), or (4) has been adjudicated as a mental defective or has been committed to a mental institution.

Sec. 181.107 Record of transactions.—Every licensee and permittee shall maintain records of explosive materials in such form and manner as is prescribed by Subpart G of this part.

Sec. 181.108 Importation.—Explosive materials imported or brought into the United States by a licensed importer or permittee may be released from Customs custody to the licensed importer or permittee upon proof of his status as a licensed importer or permittee. Such status shall be established by the licensed importer or permittee furnishing to the Customs officer a certified copy of his license or permit (see section 181.104). The provisions of this section are in addition to, and are not in lieu of, any applicable requirement under Part 180 of this chapter.

Sec. 181.109 Identification of explosive materials.—Each licensed manufacturer of explosive materials on or after February 12, 1971, shall legibly identify by marking all explosive materials he manufactures for sale or distribution. The marks required by this section shall identify the manufacturer and the location, date, and shift of manufacture. The licensed manufacturer shall place on each cartridge, bag, or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging: *Provided,* That with respect to explosive materials of small size not suitable for marking on the individual item (for example, blasting caps), it shall only be necessary to place such identification marks on the containers used for their packaging.

Subpart G—Records and Reports

Sec. 181.121 General.—(a) The records pertaining to explosive materials prescribed by this part shall be in permanent form, and shall be retained on the licensed or permit premises in the manner prescribed by this subpart for a period of not less than 5 years from the date the transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also section 181.128.)

(b) Internal revenue officers may enter the premises of any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee for the purpose of examining or inspecting any record or document required by or obtained under this part (see section 181.24). Section 843(f) of the Act requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers, and permittees to make such records available for such examination or inspection at all reasonable times. Section 843(f) of the Act also requires licensed importers, licensed manufacturers, licensed manufacturers-limited, licensed dealers and permittees to submit such reports and information with respect to such records and the contents thereof as the regulations contained in this part prescribe.

(c) Each licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, and permittee shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of explosive materials as the regulations contained in this part prescribe. Section 842(g) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee knowingly to make any false entry in any record required to be maintained pursuant to the Act and the regulations contained in this part.

Sec. 181.122 Records maintained by importers.—(a) Each licensed importer of explosive materials shall take true and accurate inventories which shall include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed importer shall take such an inventory as of February 12, 1971, or at the time of commencing business subsequent thereto, which shall be the effective date of the license issued upon original qualification under this part; at the time of changing the location of his premises to another region; at the time of discontinuing business, and at such other times as the Assistant Regional Commissioner may in writing require. Each inventory shall be prepared in duplicate, the original of which shall be submitted to the Assistant Regional Commissioner, and the duplicate shall be retained by the licensed importer. (See also section 181.127.)

(b) Each licensed importer shall not later than the close of the next business day following the date of importation or other acquisition, record the quantity and class of explosive materials, as prescribed in the Explosives List, manufacturer, manufcturers' marks of identification (if any), and country of manufacture of explosive materials he imports or otherwise acquires, and the date such importation or other acquisition was made.

(c) A record of explosive materials distributed by a licensed importer to another licensee or permittee shall be maintained by the licensed importer on hs licensed premises and shall show the quantity, class (as prescribed in the Explosives List), manufacturer, manufacturers' marks of identification (if any), country of manufacture, and license or permit number of the licensee or permittee to whom the explosive materials were distributed, and the date of the transaction. The information required by section 181.103(b), (c) and (d) shall also be maintained as part of the records of the licensed importer. The information required by this paragraph shall be entered in the proper record book not later than the close of the next business day following the date of the transaction.

(d) Notwithstanding the provisions of paragraph (c) of this section, the Assistant Regional Commissioner may authorize alternate records to be maintained by a licensed importer to record his distribution of explosive materials when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the Assistant Regional Commissioner and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Assistant Regional Commissioner.

(e) Each licensed importer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. Such records shall be maintained in the form and manner as prescribed by section 181.126.

Subpart H—Exemptions

Sec. 181.141 General.—The provisions of this part shall not apply with respect to:

(a) Any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the U.S. Department of Transportation, and agencies thereof.

(b) The use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopoeia, or the National Formulary.

(c) The transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof.

(d) Small arms ammunition and components thereof.

(e) Black powder in quantities not to exceed five pounds.

(f) The manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States.

(g) Arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(h) The importation and distribution of fireworks in a finished state, commonly sold at retail for personal use in compliance with State laws or local ordinances.

(i) Gasoline, fertilizers, propellant actuated devices, or propellant actuated industrial tools manufactured, imported, or distributed for their intended purposes.

Subpart I—Unlawful Acts, Penalties, Seizures, and Forfeitures

Sec. 181.161 Engaging in business without a license.—Any person engaging in the business of importing, manufacturing, or dealing in explosive materials without a license issued under the Act, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

Sec. 181.162 False statement or representation.—Any person who knowingly withholds information or makes any false or fictitious oral or written statement or funishes or exhibits any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the Act, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

Sec. 181.163 False entry in record.—Any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee who knowingly makes any false entry in any record required to be kept pursuant to Subpart G of this part, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

XXXI. SAFETY STANDARDS FOR IMPORTED PLEASURE BOATS AND EQUIPMENT

Regulations of the Coast Guard, under the Federal Boat Safety Act of 1971 (Public Law 92-75, 46 U.S.C. 1451-1489), relating to safety standards for foreign-made pleasure boats and equipment imported into the United States after November 1, 1972, Code of Federal Regulations, Title 33, Parts 181 and 183.

Part 181—MANUFACTURER REQUIREMENTS

Subpart A—General

Sec.
181.1 Purpose and applicability.
181.3 Definitions.

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Authority: Secs. 5, 7, and 39, 85 Stat. 213, 215, 216, 228; 46 U.S.C. 1454, 1456, 1488; 49 CFR 1.46(o)(1).

Subpart A—General

Sec. 181.1 Purpose and applicability.—This part prescribes requirements for the certification of boats and associated equipment and identification of boats to which section 4 of the Federal Boat Safety Act of 1971 applies.

Sec. 181.3 Definitions.—As used in this part—(a) "Manufacturer" means any person engaged in—

(1) The manufacture, construction, or assembly of boats or associated equipment; or

(2) The importation into the United States for sale of boats, associated equipment, or components thereof.

(b) "Boat" means any vessel manufactured or used primarily for noncommercial use; leased, or rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(c) "Associated equipment" means—

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;

(2) Any accessory or equipment for, or appurtenance to, a boat; and

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but

(4) Excluding radio equipment.

(d) "Date of certification" means the date on which a boat or item of associated equipment is certified to comply with all applicable U.S. Coast Guard safety standards in effect on that date.

(e) "Date of manufacture" means the month and year during which construction or assembly of a boat or item of associated equipment begins.

(f) "Model year" means the period beginning August 1 of any year and ending on July 31 of the following year. Each model year is designated by the year in which it ends.

(g) "Private label merchandiser" means any person engaged in the business of selling or distributing, under his own trade name, boats or items of associated equipment manufactured by another.

Subpart B—Manufacturer Certification of Compliance

Sec. 181.5 Purpose and applicability.—This subpart prescribes requirements for the certification of boats and associated equipment to which section 4 of the Federal Boat Safety Act of 1971 applies and to which a safety standard in Part 183 of this chapter applies.

Sec. 181.7 Compliance certification label required.—Unless there is affixed to it a certification label that contains the information required by section 181.15—

(a) No person who manufactures, constructs, or assembles a boat or associated equipment may deliver that boat or equipment for the purpose of sale;

(b) No person may import into the United States any boat or associated equipment; and

(c) No person engaged in the business of selling or distributing boats or associated equipment may sell or offer for sale any boat or associated equipment.

Sec. 181.9 Affixing labels.—(a) Each manufacturer of a boat or item of associted equipment to which a standard or regulation prescribed in Part 183 of this chapter applies shall affix a certification label that contains the information required by section 181.15 to that boat or equipment before it—

(1) Leaves the place of manufacture for the purpose of sale; or

(2) Is imported.

(b) The manufacturer of a boat or item of associated equipment that is sold to a private label merchandiser may, at the option of the private label merchandiser, affix a certification label identifying the private label merchandiser as the manufacturer before the boat or item of associated equipment leaves the place of manufacture.

Sec. 181.11 Exceptions to labeling requirement.—(a) This part does not apply to boats or associated equipment intended solely for export, and so labeled, tagged, or marked on the boat or equipment and on the outside of the container, if any, which is exported.

(b) If an item of associated equipment is so small that a certification label that meets the requirements in section 181.15 cannot be affixed to it, a certification label that contains the information required by section 181.15 may be printed on the smallest container in which the item is packed or on a slip packed with the item.

Sec. 181.13 Removal of labels.—No person may remove a label required by this part or remove or alter any information on a label required by this part, unless authorized by the Commandant.

Sec. 181.15 Contents of labels.—(a) Each label required by section 181.7 must contain—

(1) The name and address of the manufacturer or private label merchandiser who certifies that the boat or item of associated equipment complies with the standards prescribed in Part 183 of this subchapter; and

(2) Except as provided in paragraph (c) of this section, the words—

(i) "This (insert "Boat" or "Equipment") Complies With U.S. Coast Guard Safety Standards In Effect On (insert date of certification as prescribed in paragraph (b) of this section)"; or

(ii) If the item being certified is a boat or boat hull, the label may show the words, "This Boat Complies with U.S. Coast Guard Safety Standards In Effect On The Date of Certification."

(b) Date of certification must be no earlier than the date on which construction or assembly began and no later than the date on which the boat or item of associated equipment leaves the place of manufacture or assembly or import for the purposes of sale.

(c) If a boat displays the stability warning label required by section 183.23 of this subchapter, the words "Except Load Capacity" must be inserted after the words "Safety Standards" and before "In Effect" in the statement prescribed by paragraph (a)(2) of this section.

(d) Except as provided in paragraph (e) of this section, the manufacturer may, in addition to the information required by paragraphs (a), (b), and (c) of this section display on the certification label any or all of the following items of information:

(1) Model name or designation.

(2) Hull identification number (if a boat) or serial number (if an item of associated equipment).

(3) Model year.

(e) Display of the hull identification number on the certification label does not satisfy the display requirements of section 181.29.

Sec. 181.17 Label numbers and letters.—Letters and numbers on each label must—

(a) Be no less than one-eighth of an inch in height; and

(b) Contrast with the basic color of the label, except that the date of certification may be permanently stamped, engraved, or embossed on the label.

Sec. 181.19 Construction of labels.—(a) Each label must be made of material that can withstand exposure to water, oil, salt spray, direct sunlight, heat, cold, and wear expected in norml use of the boat or item of associated equipment without deterioration of legibility.

(b) Each label must be made of material that shows visible traces of the alteration or removal of information on the label.

Subpart C—Identification of Hulls

Sec. 181.21 Purpose and applicability.—This subpart prescribes the requirements for identification of hulls of boats to which section 4 of the Federal Boat Safety Act of 1971 applies.

Sec. 181.23 Hull identification numbers required.—Except as provided in paragraph (b) of this section—

(a) Each manufacturer of a boat hull shall identify that hull with a hull identification number that meets the requirements of this subpart;

(b) Each person who imports a boat or boat hull shall identify that hull with a hull identification number that meets the requirements of this subpart, unless the manufacturer of that hull or boat has already identified the hull with a hull identification that meets the requirements of this part; and

(c) No person may assign the same first eight characters of a hull identification number to more than one boat hull.

Sec. 181.25 Hull identification number format.—Each hull identification number required by section 181.23 must consist of 12 characters as follows:

(a) The first three characters must consist of a manufacturer identification assigned under section 181.31.

(b) Characters 4 through 8 must be assigned by the manufacturer and must be letters of the English alphabet or Arabic numerals or both, except the letters I, O, and Q.

(c) Characters 9 through 12 must indicate the date of certification. The characters must be either—

(1) Arabic numerals with characters 9 and 10 indicating the month and characters 11 and 12 indicating the last two numerals of the year; or

(2) A combination of Arabic numerals and letters of the English alphabet with character 9 indicated as "M," characters 10 and 11 the last two numerals of the model year, and character 12 the month of the model year. The first month of the model year, August, must be designated by the letter "A," the second month, September, by the letter "B," and so on until the last month of the model year, July.

Sec. 181.27 Additional characters in hull identification number.—A manufacturer may display additional characters after the 12 characters required by section 181.25 if they are separated from the hull identification number by a hyphen.

Sec. 181.29 Hull identification number display.—(a) The hull identification nmber must be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the waterline of the boat in such a way that alteration, removal, or replacement would be obvious and evident.

(b) The characters of the hull identification number must be no less than one-fourth of an inch in height.

Sec. 181.31 Manufacturer identification assigned.—(a) Each person required by section 181.23 to affix a hull identification number may request a manufacturer identification from the Commandment (GBBC), 400 Seventh Street SW., Washington, DC 20590. There is no charge for the assignment.

Part 183—BOATS AND ASSOCIATED EQUIPMENT

Subpart A—General

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183.1 Purpose and applicability.
183.3 Definitions.

Subpart B--Display of Capacity Information
183.21 Applicability.
183.23 Capacity marking required.
183.25 Display of markings.
183.27 Construction of markings.

Subpart C—Safe Loading
183.31 Applicability.
183.33 Maximum weight capacity: Inboard and inboard-outdrive boats.

183.35 Maximum weight capacity: Outboard boats.
183.37 Maximum weight capacity: Boats without mechanical propulsion.
183.39 Persons capacity: Inboard and inboard-outdrive boats.
183.41 Persons capacity: Outboard boats.
183.43 Persons capacity: Boats without mechanical propulsion.

Subpart D—Safe Powering

183.51 Applicability.
183.53 Horsepower capacity.

Subpart E—Flotation

183.61 Applicability.
183.63 Quantity of flotation required.
183.65 Flotation materials.
183.67 Method for determioning quantity of flotation.

Authority: The provisions of this Part 183 issued under secs. 5, 7, and 39, 85 Stat. 213, 215, 216, 228 (46 U.s.C. 1454, 1456, 1488; 49 CFR 1.46(o)(1).

Subpart A—General

Sec. 183.1 Purpose and applicability.—This part prescribes standards and regulations for boats and associated equipment to which section 12 of the Federal Boat Safety Act of 1971 applies and to which certification requirements in Part 181 of this subchapter apply.

Sec. 183.3 Definitions.—(a) "Beam" means the maximum transverse distance between the outer sides of the hull excluding fenders, joiner strips, and other extensions.

(b) "Boat" means any vessel manufactured or used primarily for noncommercial use; leased, rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(c) "Length" means the straight line horizontal distance between the intersection of the stem and stern profiles with the sheer excluding fenders or other extensions.

(d) "Monohull boat" means a boat on which the line of intersection of the water surface and the boat at any operating draft forms a single closed curve. For example, a catamaran, trimaran, or pontoon boat is not a monohull boat.

(e) "Sailboat" means a boat designed or intended to use sails as the primary means of propulsion.

(f) "Sheer" means the fore-and-aft curve in a vertical plane of the topmost line in a vessel's side.

(g) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

Subpart B—Display of Capacity Information

Sec. 183.21 Applicability.—This subpart applies to monohull boats less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats.

Sec. 183.23 Capacity marking required.—(a) Except as provided in paragraph (b), each boat must be marked in the manner prescribed in sections 183.25 and 183.27 with the maximum weight capacity, maximum persons capacity determined under sections 183.33 through 183.43, and maximum horsepower capacity determined under section 183.53.

(b) Any boat, the construction or assembly of which begins before August 1, 1973, may have displayed thereon a maximum perons capacity greater than that determined in sections 183.39 through 183.43 if the maximum persons capacity displayed does not exceed the maximum weight capacity and the boat displays at least two stability warning labels prescribed in paragraph (c) of this section.

(c) Each of the stability warning labels required by paragraph (b) of this section must—

(1) Be waterproof;

(2) Be displayed at normal boarding positions; and

(3) Have a plan view of the boat and the words in block letters in the sizes shown in Figure 183.23 in colors that contrast with the background of the label.

Figure 183.23

Sec. 183.25 Display of markings.—(a) Each marking required by section 183.23(a) must be permanently displayed in a legible manner where it is clearly visible to the operator when he is getting the boat underway.

(b) The information required to be marked by section 183.23(a) must be displayed in the following manner—

(1) For outboard boats:

U.S. Coast Guard Capacity Information

Maximum horsepower	XXX
Maximum persons capacity (pounds)	XXX
Maximum weight capacity (persons, motor, and gear) (pounds)	XXX

(2) For inboard boats, inboard-out-drive boats, and boats without mechanical propulsion:

U.S. Coast Guard Capacity Information

Maximum persons capacity (pounds)	XXX
Maximum weight capacity (persons and gear) (pounds)	XXX

Sec. 183.27 Construction of markings.—Each marking required by section 183.23(a) must be—

(a) Capable of withstanding the combined effects of exposure to water, oil, salt spray, direct sunlight, heat, cold, and wear expected in normal operation of the boat, without loss of legibility; and

(b) Resistant to efforts to remove or alter the information without leaving some obvious sign of such efforts.

Subpart C—Safe Loading

Sec. 183.31 Applicability.—This subpart applies to monohull boats less than 20 feet in length except sailboats, canoes, kayaks, and inflatable boats.

Sec. 183.33 Maximum weight capacity: Inboard and inboard-outdrive boats.—(a) The maximum weight capacity marked on a boat that has one or more inboard or inboard-outdrive units for propulsion must not exceed *W* in the formula:

$$W = \frac{\text{(Maximum displacement)}}{5} - \frac{\text{Boat weight}}{5} - \frac{\text{4 (Machinery weight)}}{5}$$

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (or transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances, including machinery weight.

(3) "Machinery weight" is the combined weight of installed engines or motors, full fuel system and tanks, control equipment, drive units and batteries.

Sec. 183.35 Maximum weight capacity: Outboard boats.—(a) The maximum weight capacity marked on a boat that is designed or intended to use one or more outboard motors for propulsion must be a number that does not exceed one-fifth of the difference between its maximum displacement and boat weight.

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard except for water coming through one opening in the motor well with its greatest dimension not over 3 inches for outboard motor controls or fuel lines. For the purpose of this paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances. For the purposes of this paragraph, outboard motors are not permanent appurtenances.

Sec. 183.37 Maximum weight capacity: Boats without mechanical propulsion.—(a) The maximum weight capacity marked on a boat that is not designed intended to have mechanical propulsion must not exceed one-fifth of the difference between the boat's maximum displacement and the boat weight.

(b) For the purposes of paragraph (a) of this section—

(1) "Maximum displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat and all its permanent appurtenances.

Sec. 183.39 Persons capacity: Inboard and inboard-outdrive boats.—The persons capacity marked on a boat that is designed or intended to use one or more inboard engines or inboard-outdrive units must not exceed the lesser of the maximum weight capacity determined under section 183.33 for the boat or the maximum persons capacity determined by the following test in calm water:

(a) Float the boat, with all its permanent appurtenances, including installed engines, full fuel system and tanks, control equipment, drive units, and batteries.

(b) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floorboards, until the boat assumes the maximum list or trim, or both without water coming aboard.

(c) Compute the persons capacity in the following formula:

Persons capacity $= \frac{A}{0.6}$ where A is the total of the weights added in paragraph (b) of this section.

Sec. 183.41 Persons capacity: Outboard boats.—The persons capacity marked on a boat that is designed or intended to use one or more outboard motors for propulsion must not exceed the lesser of the maximum weight capacity determined under section 183.35 for the boat or the live load capacity determined by the following test in calm water:

(a) Float the boat with all its permanent appurtenances.

(b) Add, in normal operating positions, the dry motor and control weight, battery weight, and portable tank weight, if any, shown in Table 183.67(a) for the maximum horsepower capacity marked on the boat. For permanently installed fuel tanks, add 6 pounds of weight for each gallon of fuel capacity.

(c) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floorboards until the boat assumes the maximum list or trim, or both, without water coming aboard.

(d) Compute the persons capacity in the following formula:

Persons capacity $= \frac{A}{0.6}$ where A is the total of the weights added in paragraph (c) of this section.

Sec. 183.43 Persons capacity: Boats without mechanical propulsion.—The persons capacity marked on a boat that is not designed or intended to have mechanical propulsion must not exceed the lesser of the maximum weight capacity determined under section 183.37 for the boat or the live load capacity determined by the following test in calm water:

(a) Float the boat, with all its permanent appurtenances.

(b) Gradually add weights along one outboard extremity of each passenger carrying area at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floorboards until the boat assumes the maximum list or trim, or both, without water coming aboard.

(c) Compute the persons capacity in the following formula:

Persons capacity $= \frac{A}{0.6}$ where A is the total of the weights added in paragraph (b) of this section.

Subpart D—Safe Powering

Sec. 183.51 Applicability.—This subpart applies to monohull boats less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats, that are designed or intended to use one or more outboard motors for propulsion.

Sec. 183.53 Horsepower capacity.—The maximum horsepower marked on a boat must not exceed the horsepower capacity determined as follows:

(a) Compute a factor by multiplying the boat length in feet by the maximum transom width in feet including spray rails if spray rails act as chines or part of the planning surface. If the boat does not have a full transom, the transom width is the broadest beam in the aftermost quarter length of the boat.

(b) Locate horsepower capacity corresponding to the factor in Table 183.53.

(c) If the horsepower capacity in Table 183.53 is not an even multiple of 5, it may be raised to the next even multiple of 5.

(d) For flat bottom hard chine boats with a factor of 52 or less, the horsepower capacity must be reduced by one horsepower capacity increment in Table 183.53.

Subpart E—Flotation

Sec. 183.61 Applicability.—This subpart applies to monohull boats the construction or assembly of which is begun after July 31, 1973, and which are less than 20 feet in length, except sailboats, canoes, kayaks, and inflatable boats.

Sec. 183.63 Quantity of flotation required.—Each boat must have—

(a) At least the quantity of flotation prescribed in section 183.67; or

(b) Enough flotation to keep any portion of the boat above the surface of the water when the boat is filled with water and loaded with—

(1) A weight that, when submerged, equals two-fifteenths of the persons capacity marked on the boat; and

(2) A weight that, when submerged, equals 25 percent of the dead weight; and

(3) A weight in pounds that, when submerged, equals 62.4 times the volume of the two largest air chambers, if air chambers are used for flotation; and

(4) For outboard motor boats, a weight that, when submerged, equals the submerged motor and control weight from Table 183.67(a).

(c) For the purpose of this section, "dead weight" means—

(1) For outboard boats and boats without mechanical propulsion, the maximum weight capacity marked on the boat minus the sum of—

(i) Motor and control weight, and battery weight (dry) from Table 183.67(a); and

(ii) The persons capacity determined under section 183.41 for the boat, and

(2) For inboard boats, the maximum weight capacity marked on the boat minus the persons capacity determined under section 183.39 for the boat.

Sec. 183.65 Flotation materials.—(a) The flotation required by section 183.63 must be made of materials that are—

(1) Capable of withstanding the combined effects of contact with oil, oil products, or other liquids or compounds with which the material may be expected to come in contact during normal use, including fuel oil, gasoline, grease, lubricating oil, common bilge solvents, and salt and fresh water;

(2) Capable of withstanding combined exposure to sunlight, vibration, shock, and temperature variations which may be expected during normal use;

(3) Installed in such a manner that the flotation is fully effective when the boat is flooded or capsized.

(b) Any air chamber used for flotation must not be an integral part of the hull.

TABLE 183.53—OUTBOARD BOAT HORSEPOWER CAPACITY

Compute: Factor = Boat Length × Transom Width

If factor (nearest integer) is	0–35	36–39	40–42	43–45	46–52
Horsepower capacity is	3	5	7 1/2	10	15

Note: For flat bottom hard chine boats, with factor of 52 or less, reduce one capacity increment (e.g. 5 to 3)

		No remote steering, or less than 20″ transom	
If factor is over 52.5 and the boat has	Remote steering and at least 20″ transom height	For flat bottom hard chine boats	For other boats
Horsepower capacity is (raise to nearest multiple of 5)	(2 × Factor) − 90	(0.5 × Factor) − 15	(0.8 × Factor) − 25

Sec. 183.67 Method for determining quantity of flotation.—The minimum quantity of flotation required by section 183.63(a) must be determined by the following method:

(a) Step 1: Determine the Submerged Weight of Boat (W_s) in the formula:

$$W_s = W_h K_1 W_d K_2 0.69W_e$$

Where:

W_s = Submerged weight of boat.
W_h = Dry weight of hull.
W_d = Dry weight of deck and superstructure.
W_e = Dry weight of permanent appurtenances except motor and control weight, battery weight, and portable tank weight.
K_1 and K_2 = Conversion factors for materials used from Table 183.67(b).

(b) Step 2: Determine submerged weight of engine and related equipment (G) as follows:

(1) For outboard boats, G equals the sum of the submerged motor and control weight, battery weight, and full fuel tank weight from Table 183.67(a) for maximum horsepower capacity marked on the boat in accordance with section 183.53.

(2) For inboard boats G equals 75 percent of the installed weight of engine, drive, and fuel system.

(c) Step 3: Determine dry weight of load (C) as follows:

(1) For outboard boats, C equals the maximum weight capacity as determined in section 183.35 minus the sum of dry motor and control weight, battery weight, and full fuel tank weight from Table 183.67(a).

(2) For inboard boats, C equals the maximum weight capacity as determined in section 183.33.

(d) Step 4: Determine flotation required (W) in the formula:

$$W = W_s \text{ (Step 1) } G \text{ (Step 2) } 0.25 C \text{ (Step 3).}$$

(e) Step 5: Determine the volume of flotation materil (F) needed in the formula:

$$F = \frac{\text{Flotation required (W)}}{\text{Buoyancy of flotation material}} + \text{Chamber volume (V)}$$

where: "Flotation required" is that value of W determined in Step 4; "Chamber volume" is the volume of the two largest air chambers, if air chambers are used for flotation; and "Buoyancy of flotation material" is determined by subtracting from the density of fresh water the density of the flotation material. The density of the flotation material must be determined after the material has been immersed in fresh water for one-half hour. When air chambers are used, the "Buoyancy of flotation material" is 62.4 lbs./ft.^{2}

TABLE 183.67(a)

WEIGHTS OF OUTBOARD MOTOR AND RELATED EQUIPMENT FOR VARIOUS BOAT HORSEPOWER RATINGS

Boat horsepower rating	Motor and control weight		Battery weight		Full portable fuel tank weight[2]	
	Dry	Wet[1]	Dry	Wet[1]	Dry	Wet[1]
Under 4	35	20				
4.1 to 5	55	34			25	−1
5.1 to 10	70	55	20	11	50	−1
10.1 to 30	105	86	45	25	50	−1
30.1 to 50	190	138	45	25	100	−3
50.1 to 75	240	163	45	25	100	−3
75.1 to 150	305	218	45	25	100	−3
Transoms designed for twin motors:						
60.0 to 100	380	268	45	25	100	−3
100.1 to 150	480	328	45	25	100	−3
150.1 to 300	610	413	45	25	100	−3

[1] Wet in this case means submerged.

[2] If the boat has a permanent built-in fuel tank, the tank should be full for the test and the "Full Portable Fuel Tank Weight" excluded.

TABLE 183.67(b)

FACTORS FOR CONVERTING VARIOUS BOAT MATERIALS FROM DRY TO SUBMERGED WEIGHT

Material	Sp. Gr.	Factor
Steel	7.85	0.88
Aluminum	2.73	0.63
Fiberglass	1.50	0.33
A.B.S.	1.12	0.11
Oak	0.63	−0.56
Mahogany	0.56	−0.78
Ash	0.56	−0.78
Yellow Pine	0.55	−0.81
Fir Plywood	0.55	−0.81
Mahogany Plywood	0.54	−0.83
Royalex	0.50	−0.95
Cedar	0.33	−1.95
Balsa end grain	0.16	−5.24

XXXII. ANTIDUMPING AND COUNTERVAILING DUTIES REGULATIONS

Regulations of the International Trade Administration, Department of Commerce, relating to antidumping and countervailing duties, Code of Federal Regulations, title 19, Chapter III, Parts 353 and 355.

PART 353—ANTIDUMPING DUTIES

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353.57 Entered value not controlling.
Annex I—Antidumping Duty Findings or Orders Currently In Effect.

Authority: 5 U.S.C. 301, and the Trade Agreements Act of 1979, Pub. L. 96-39, sec. 3(b), 93 Stat. 148.

Source: 45 FR 8190, Feb. 6, 1980, unless otherwise noted.

§ 353.0 Scope.

This part sets forth procedures and rules applicable to proceedings under Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1673 *et seq.*) (hereinafter referred to as "the Act"), relating to the imposition of antidumping duties. Determinations by the Secretary under the Act shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and Executive Order 12114, January 9, 1979.

Subpart A—Definitions

§ 353.1 Relationship of fair value to foreign market value.

Fair value, used during the investigative phase of a proceeding, is intended to be an estimate of foreign market value. Except where specifically noted, all references in this subpart to "foreign market value" should be considered to apply to "fair value" as well; on the other hand, specific references to "fair value" in this subpart should not be considered to refer to "foreign market value."

§ 353.2 Definition of foreign market value.

For purposes of the Act, the foreign market value of imported merchandise shall be determined in accordance with §§ 353.3 through 353.9 of this part.

§ 353.3 Foreign market value based on price in the country of exportation.

(a) *In general.* (1) The foreign market value of merchandise imported into the United States shall ordinarily be determined by the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase.

(2) In determining the ordinary course of trade, conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind shall be applicable.

(b) *Restricted sales.* When home market sales form the basis of comparison to the United States price, they may be used for this purpose whether or not they are restricted, provided however, that appropriate adjustment for the home market price will be made for such restrictions that affect the value of the merchandise to the purchaser.

§ 353.4 Foreign market value where sales in the country of exportation are inadequate.

(a) *In general.* If it is established, in a situation other than that provided for in § 353.9, that during the representative period chosen for investigation the quantity of such or similar merchandise sold for consumption in the country of exportation is so small in relation to the quantity sold for exportation to countries other than the United States (normally, less than five percent of the amount sold to third countries) as to be an inadequate basis for determining the foreign market value of the merchandise imported into the United States, the foreign market value of the imported merchandise shall be determined either by reference to the price at which such or similar merchandise is sold or offered for sale for exportation to countries other than the United States or by reference to its constructed value.

(b) *Preference for third country sale.* Foreign market value based on sales to a third country generally will be preferred to foreign market value based on constructed value if adequate information is available and can be verified within the time required.

§ 353.5 Foreign market value based on sales to a third country.

(a) *In general.* Where based on sales to a third country, foreign market value shall be determined by the price, at the time of exportation of the merchandise under investigation, at which such or similar merchandise is sold or offered for sale to countries other than the United States, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase.

(b) *Restricted sales.* When third country sales form the basis of comparison to United States price, they may be used for this purpose whether or not they are restricted, provided however, that appropriate adjustment of the third country price will be made for such restrictions that affect the value of the merchandise to the purchaser.

(c) The third country selected for such purposes will generally be that single country meeting, in order of preference, the following criteria:

(1) The product exported to such country has a greater degree of similarity to the product exported to the United States than does the product exported to other countries, provided the volume of sales to such country is deemed adequate;

(2) The volme of sales to such country is the largest sales volume to any country outside the home market or the United States; and

(3) The market in such country is, in terms of organization and development, most like the United States market.

(d) If sales to a single country selected under paragraph (c) of this section do not provide an adequate sample, sales to additional countries selected using such criteria may be aggregated.

§ 353.6 Foreign market value determined by constructed value.

(a) *Method of determining constructed value.* Where based on constructed value, foreign market value shall be determined, from the best available information, by adding—

(1) The cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration, which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) An amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that the amount for general expenses shall be be less than 10 percent of the cost as defined in paragraph (a)(1) of this section and the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

(3) The cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition packed ready for shipment to the United States.

(b) *Transactions with related parties.* Direct or indirect transactions between related parties (as defined in section 773(e)(3) of the Act) may be disregarded if, in the case of any element of value required to be considered pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of the merchandise subject of the investigation. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between non-related parties.

§ 353.7 Foreign market value where sales are made at less than the cost of production

(a) *Method for determining whether sales are at less than cost.* Whenever the Secretary has reasonable grounds to believe or suspect that the price at which such or similar merchandise is sold for consumption in the country of exportation as determined under § 353.3, or as appropriate, the price at which such or similar merchandise is sold for exportation to countries other than the United States as determined under § 353.5, or the price at which such or similar merchandise is sold by facilities outside the country of exportation by a related company as determined under § 353.9, represents a price which is less than the cost of producing the merchandise, the Secretary shall disregard such sales in the determination of foreign market value if such sales:

(1) Have been made over an extended period and in substantial quantities, and

(2) Are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade.

(b) *Use of constructed value where above cost sales are inadequate.* Whenever sales are disregarded by virtue of having been made at less than the cost of production, and the remaining sales in the home market or, as appropriate, to third countries or by facilities outside the country of exportation by a related company, made at not less than the cost of production, are determined to be inadequate as a basis for the determination of foreign market value, the Secretary shall determine foreign market value on the basis of the constructed value as determined under § 353.6. The cost of production will be computed on the basis of the best available information of costs of materials, labor and general expenses, excluding profit, incurred in producing such or similar merchandise.

§ 353.8 Foreign market value of merchandise from state-controlled-economy countries

(a) *In general.* If, on the basis of the information available, it is determined that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under §§ 353.3. 353.5, or 353.9, foreign market value shall be determined on the basis of the normal costs, expenses, and profits as reflected in order of preference by either:

(1) The prices, determined in accordance with § 353.3 or § 353.5, at which similar merchandise produced in a non-state-controlled-economy country or countries is sold either: (i) For consumption in the home market of that country or countries, or (ii) to other countries, including the United States; or

(2) The constructed value of such or similar merchandise in a non-state-controlled-economy country, determined in accordance with § 353.6.

(b) *Comparability of economies.* (1) The prices as determined under paragraph (a)(1), or the constructed value as determined under paragraph (a)(2), shall be determined, to the extent possible, from the prices or costs in a non-state-controlled-economy country or countries at a stage of economic developent comparable to the state-controlled-economy country from which the merchandise is exported. Comparability of economic development shall be determined from generally recognized criteria, including per capita gross national product and infrastructure development (particularly in the industry producing such or similar merchandise).

(2) If no non-state-controlled-economy country of comparable economic development can be identified, then the prices or constructed value as determined from another non-state-constrolled-economy country or countries other than the United States shall be used, suitably adjusted for known differences in the costs of material and labor.

(3) If neither paragraph (b)(1) nor (b)(2) provides an adequate basis for determining the price or constructed value of such or similar merchandise, then the prices or constructed value, as determined from the sales or production of such or similar merchandise in the United States, shall be used.

(c) *Use of constructed value.* If such or similar merchandise is not produced in a non-state-controlled-economy country which is concluded to be comparable in terms of economic development to the state-controlled-economy country from which the merchandise is exported, the constructed value of such or similar merchandise may be determined from the costs of specific objective components or factors of production incurred in producing the merchandise in question, including, but not limited to, hours of labor required, quantities of raw materials employed, and amounts of energy consumed, if such information is obtained from the producer of the merchandise in the state-controlled-economy country under investigation, and verfication of such information in the state-controlled-economy country is concluded to the satisfaction of the Secretary. Such components or factors shall be valued and such values verified in a non-state-controlled-economy country determined to be reasonably comparable in economic development to the state-controlled-economy country under investigation. To the values thus obtained, there shall be added an amount for general expenses and profit, as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

§ 353.9 Foreign market value based on sales in a third country by a related company.

The determination of foreign market value of merchandise sold by those multinational corporations described in section 773(d) of the Act shall be made in accordance with provisions of that section.

§ 353.10 Definition of "United States price."

(a) *In general.* For purposes of this part, the term "United States price" means the purchase price or the exporter's sales price of the merchandise under investigation, as appropriate.

(b) *Purchase price*. "Purchase price" means the price at which the merchandise under investigation is purchased, or agreed to be purchased, prior to the date of importation, from the manufacturer or producer of the merchandise for exportation to the United States. Appropriate adjustments for costs and expenses under paragraph (d) of this section shall be made if they are not reflected in the price paid by the person by whom, or for whose account, the merchandise is imported.
Whenever purchase price is used and there is reason to believe that the price to the person by whom or for whose account the merchandise is imported does not reflect the costs and expenses incident to bringing the merchandise from the country of exportation, then appropriate adjustments for such costs and expenses shall be made under paragraph (d) of this section.

(c) *Exporter's sales price*. "Exporter's sales price" means the price at which merchandise under investigation is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, as adjusted under paragraphs (d) and (e) of this section.

(d) *Adjustments to purchase price and exporter's sales price*. Purchase price and exporter's sales price shall be adjusted by being—

(1) Increased by:

(i) When not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States;

(ii) The amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States;

(iii) The amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and

(iv) The amount of any countervailing duty imposed on the merchandise to offset an export subsidy; and

(2) Reduced by:

(i) Except as provided in paragraph (d)(1)(iv) this section, the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

(ii) The amount, if included in such price, of any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise to the United States other than an export tax, duty, or other charge described in section 771(6)(C) of the Act.

(e) *Additional adjustments to exporter's sales price*. For purposes of this section, the exporter's sales price shall also be adjusted by being reduced by the amount, if any, of—

(1) Commissions for selling in the United States the particular merchandise under consideration,

(2) Expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and attributable under generally accepted accounting principles to the particular merchandise under consideration; and

(3) Any increased value resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise, which value generally will be determined from the costs of material, labor and other expenses incurred in such manufacture or assembly.

§ 353.11 Definitions of antidumping duty "proceeding," "investigation," "determination" and "Order."

(a) A "proceeding" refers to that time from the filing of a petition (or publication of a notice of self-initiation under section 732(a) of the Act) until the publication of the earliest of: (1) A notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) a notice of revocation of an Order.

(b) An "investigation" refers to that time between the publication of a notice of initiation and the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings, or (3) an Order.

(c) A "determination" is an official decision in the course of a proceeding.

(d) An "Order" is a notice issued following final determinations of sales at less than fair value and injury, which provides for the imposition of antidumping duties.

§ 353.12 Other definitions.

(a) *Country*. "Country" means a foreign country, a political subdivision, dependent territory, or possession of a foreign country.

(b) *Industry*. "Industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product as provided in section 771(4) of the Act. An "industry" may also include domestic producers in a particular market in the United States where such producers sell all or almost all of their production of the like product in question in that market and where the demand for the like product in that market is not supplied to any substantial degree by producers of the product located elsewhere in the United States.

(c) *Interest party*. "Interested party" means—

(1) A foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under this part or a trade or business association a majority of the members of which are importers of such merchandise;

(2) The government of a country in which such merchandise is produced or manufactured;

(3) A manufacturer, producer, or wholesaler in the United States of a like product;

(4) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; or

(5) A trade or business association, a majority of whose members manufacture, produce, or wholesale a like product in the United States.

(d) *Person.* "Person" includes all "interested parties" as well as the other individuals, enterprises or entities, as appropriate to the context.

(e) *Secretary.* "Secretary" means the Secretary of Commerce or his designee.

(f) *Commission.* "Commission" means the U.S. International Trade Commission.

(g) *Customs Service.* "Customs Service" means the United States Customs Service of the Treasury Department.

(h) *Department.* "Department" means the Department of Commerce.

(i) *Party to the proceeding.* "Party to the proceeding" means: (1) The petitioner; (2) the government of the country in which the merchandise subject to the investigation is manufactured or produced, or from which it is exported; (3) foreign manufacturers, producers and exporters of the merchandise subject to the investigation; and (4) any other interested party, within the meaning of paragraph (c) of this section, who informs the Secretary in writing of his intent to become a party to the proceeding within 20 days after the preliminary determination or who demonstrates to the satisfaction of the Secretary good cause for intervention.

(j) *Act.* "Act" means the Tariff Act of 1930, as amended.

§ 353.13 Determination of foreign market value.

In determining foreign market value, the criteria in §§ 353.14 through 353.23 shall apply. The person who alleges entitlement to any adjustment pursuant to §§ 353.14 through 353.19 must establish entitlement thereto to the satisfaction of the Secretary.

§ 353.14 Differences in quantities.

(a) *In general.* In comparing the United States price with such applicable criteria as sales or offers, on which a determination of foreign market value is to be based, comparisons normally will be made on sales of comparable quantities of the merchandise under consideration. Further, reasonable allowances will be made for differences in quantities, to the extent that it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences in the quantities sold. In determining allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales which are available to those who purchase in the ordinary course of trade.

(b) *Criteria for allowances.* Allowances for price discounts based on quantitative differences in sales ordinarily will not be made unless:

(1) *Six month rule.* The exporter during the period covered by the antidumping investigation as established under § 353.38 (or during such other period as investigation shows is more representative) had been granting quantity discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise sold in the home market (or in third country markets when sales to third countries are the basis for comparison) in the ordinary course of trade; or

(2) *Cost justification.* The exporter can demonstrate that the discounts are warranted on the basis of savings which are specifically attributable to the production of the different quantities involved.

(3) *Use in determining foreign market value.* If the exporter satisfies the conditions in paragraph (b) of this section the price of such or similar merchandise sold at a discount in the home market (or in third country markets when third countries are the basis for comparison) will ordinarily be used as the basis for determining the foreign market value of merchandise for comparison with comparable quantities sold in the United States. If the exporter does not satisfy the conditions in paragraph (b) of this section, any sales of such or similar merchandise in the home market (or in third country markets when third countries are the basis for comparison) which are made at a discount will be used in caculating a weighted average in accordance with § 353.20.

(c) *Price lists.* In determining whether a discount has been given, the existence of a published price list reflecting such a discount will not be controlling. A price list ordinarily will be accepted only if, in the line of trade and market under consideration, the exporter demonstrates that it has adhered to its price list.

§ 353.15 Differences in circumstances of sale.

(a) *In general.* In comparing the United States price with the sales, or other criteria applicable, on which a determination of foreign market value is to be based, reasonable allowances will be made for bona fide differences in the circumstances of the sales compared to the extent that it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a direct relationship to the sales which are under consideration.

(b) *Examples.* Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, gurantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances also generally will be made for differences in commissions. Allowances generally will not be made for differences in advertising and other selling costs of a seller, unless such costs are attributable to a later sale of the merchandise by a purchaser.

(c) *Special rule.* Notwithstanding the criteria for adjustments for differences in circumstances of sale set forth in paragraphs (a) and (b) of this section, reasonable allowances for other selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual other selling expenses incurred in the one market, or the total amount of the commission allowed in such other market, whichever is less. In making comparisons using exporter's sales price, reasonable allowance will be made for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market.

(d) *Determination of allowances.* In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the cost of such differences to the seller, but, where appropriate, he may also consider the effect of such differences upon the market value of the merchandise.

§ 353.16 Differences in physical characteristics.

In comparing the United States price with the selling price in the home market, or for exportation to countries other than the United States in the case of similar merchandise, due allowance shall be made for differences in the physical characteristics of the merchandise in the markets being compared. In this regard, the Secretary will be guided primarily by the differences in cost of production, to the extent that it is established to his satisfaction that the amount of any price differential is wholly or partly due to such differences, but, when appropriate, the effect of such differences upon the market value of the merchandise may also be considered. In the case of merchandise which does not lend itself to comparison with other merchandise for the purpose of this section, any method reasonably calculated to reflect the impact on cost or value of any differences in the merchandise under consideration may be used. Differences in costs of producing merchandise with identical physical characteristics as end products will not be considered appropriate adjustments.

§ 353.17 Offering price.

In determining foreign market value, offers generally will be considered only in the absence of sales. An offer the acceptance of which is not reasonably expected shall not be deemed an offer.

§ 353.18 Fictitious sales

In determining foreign market value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, will be taken into account.

§ 353.19 Level of trade.

The comparison of the United States price with the applicable price in the market of the country of exportation (or, as the case may be, the price to or in third country markets) generally will be made at the same commercial level of trade. However, if it is found that the sales of the merchandise to the United States or in the applicable foreign market at the same commercial level of trade are insufficient in number to permit an adequate comparison, the comparison will be made at the nearest comparable commercial level of trade and appropriate adjustments will be made for differences affecting price comparability.

§ 353.20 Sales at varying prices.

(a) Where the prices of the sales which are being examinated for a determination of foreign market value vary (after allowances provided for in §§ 353.14, 353.15, 353.16, and 353.19), the determination of foreign market value normally will be based upon the weighted average of the sales prices of all merchandise used to determine foreign market value; provided that where sales are made at different levels of trade, the calculation of foreign market value, in accordance with § 353.19, will be on the basis of sales made at the same or nearest comparable level of trade as those at which the sales in question to the United States are made.

(b) If not less than 80 percent of all sales in the home market (or to third countries, if appropriate) during the period of investigation were made at the same price, weighted averages of all sales will not be used and foreign market value will be based upon the sales at that price.

(c) If the provisions of paragraph (b) of this section do not apply and weighted averages of the prices are determined to be inappropriate, the Secretary will use any other method for determining value which he deems appropriate.

(d) No sales disregarded pursuant to § 353.7 shall be used for purposes of this section.

§ 353.21 Shipments from intermediate countries.

If the merchandise which is the subject of the investigation is not imported directly from the country of origin, but is merely transshipped through the country of shipment, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of foreign market value.

§ 353.22 Transactions between related persons.

(a) *Sales agencies.* If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 771(13) of the Act, the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of foreign market value.

(b) *Sales to related persons.* If such or similar merchandise is sold, or in the absence of sales, offered for sale in the home market or, as appropriate, to third countries, to a person related to the seller of the merchandise in any of the respects described in section 771(13) of the Act, the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale to such person ordinarily will not be used in the determination of foreign market value unless such sales are demonstrated to the satisfaction of the Secretary to be at prices comparable to those at which such or similar merchandise is sold to persons unrelated to the seller.

§ 353.23 Disregarding insignificant adjustments; use of averaging or sampling techniques.

(a) *Insignificant adjustments.* In determining the adjustments to be made to foreign market value pursuant to §§ 353.14 to 353.22, adjustments which are insignificant in relation to the price or value of the affected transactions may be disregarded. Ordinarily, individual adjustments having an *ad valorem* effect of less than 0.33 percent or any group of adjustments having an *ad valorem* effect of less than 1.0 percent will be disregarded. For purposes of this section, the groups of adjustments consist of: differences in the quantities sold, differences in circumstances of sale, differences in the physical characteristics of the merchandise, and differences in the levels of trade in the markets being compared. However, even when any adjustment or group of adjustments may be disregarded under this section, such adjustment or group of adjustments shall not be disregarded if it is determined that such disregarding would significantly affect the results of the calculations.

(b) *Averaging or sampling techniques.* The Secretary may use averaging or generally recognized sampling techniques in determining foreign market value in any proceeding in which either a significant volume of sales is involved or a significant number of adjustments to prices is required.

§ 353.24 [Reserved]

Subpart B—Access to Information

§ 353.25 Information generally available.

(a) *Duty to maintain material in record.* The Department shall maintain the official record of all proceedings. The record shall consist of a copy of all information presented to or obtained by the Secretary during the course of the proceeding, including all governmental memoranda pertaining to the proceeding, memoranda of *ex parte* meetings, all determinations and notices thereof published in the Federal Register, and all transcripts or records of conferences or hearings. (See Section 516A(b)(2) of the Act.) The record will contain three types of materials:

(1) Materials protected from disclosure;

(2) Non-confidential material submitted by any person other than an employee or officer of the United States Government; and

(3) Non-confidential and non-privileged material submitted or developed by an employee or officer of the United States Government.

(b) *Examination and copying of information.* In general, all information in subparagraphs (2) and (3) of the record described in paragraph (a) will be available for inspection or copying at the Department by any person during business hours. With respect to documents prepared by an officer or employee of the United States Government, factual matters, as distinguished from advice, recommendations, opinions, and evaluations, contained in any such documents will be made available by summary or otherwise on the same basis as information contained in documents submitted by other persons. The fees charged for providing copies of documents shall be the same as for providing copies of documents pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552). (See 15 CFR 4.9.)

(c) *Reports of progress of investigation.* The Department shall, from time to time upon request, inform any party to the proceeding of the progress of an investigation. Ordinarily, no such report shall be provided until 60 days after the petition is filed. Such progress reports shall not contain privileged or confidential information and, if in written form, shall be included in the official record.

(d) *Protection of the record.* Unless otherwise ordered in a particular case by the Secretary, the record shall not be removed from the Department. A certified copy of such record shall be made available to any court before which any aspects of a proceeding is under review, with appropriate safeguards to prevent disclosure of confidential or privileged information that may be included therein.

§ 353.26 Ex parte meetings.

A written memorandum will be prepared of any *ex parte* meeting between (a) any interested party or other person providing factual information relating to a determination in the proceeding and (b) the person to whom the authority to make determinations under the Act has been delegated (the Assistant Secretary for Trade Administration) or the person making a final recommendation for decision to such person (the Deputy Assistant Secretary for Import Administration). Such memorandum shall be prepared as expeditiously as possible. It shall be included in the official record. The memorandum of such *ex parte* meeting shall include the date, time and place of the meeting, the identity of all persons present, and a non-confidential summary of the matters discussed or then submitted. Normally this memorandum shall be prepared by one of the Government participants at the meeting. If the Assistant Secretary or Deputy Assistant Secretary directs that the memorandum be prepared by a non-government participant, the Assistant Secretary or Deputy Assistant Secretary (whichever directs preparation by a non-goverment participant) shall act expeditiously to approve and include in the record such memorandum.

§ 353.27 Confidentiality maintained.

Except as provided in § 353.30, information submitted to the Department which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee of the United States Government who is directly concerned with carrying out the investigation in connection with which the information is submitted) without the consent of the person submitting it. (§ 353.28(e) sets forth the procedures followed where a request for confidential treatment is denied, in whole or in part.)

§ 353.28 Requests for confidential treatment of information.

(a) *Submission and contents of requests.* Any person who submits information in connection with a proceeding may request that such information, or any specified part thereof, be treated as confidential. Any information submitted which is not designated as confidential by the person submitting it normally shall not be treated as confidential. Information which is subject to a request for confidential treatment shall be set forth on separate pages and each such page shall be clearly marked "Confidential Treatment Requested." Each separate request for confidential treatment of information, other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order, shall be accompanied by a full statement of the reason or reasons why the submitting party believes that each piece of information subject to such request is entitled to confidential treatment within the guidelines set forth in § 353.29. All requests for confidential treatment shall be accompanied by one of the following:

(1) A summary or approximated presentation of all information which may be disclosed to the public and which is sufficiently full and descriptive of the confidential information (generally, data in numerical form relating to prices and costs of individual firms shall be considered adequately summarized and not incapable of summary—if presented—or capable of being presented—in terms of indices or in figures within 10 percent of the actual figure);

(2) A statement by the person submitting the information that the information is not susceptible to such a summary or presentation, accompanied by a full statement of the reasons supporting this conclusion; or

(3) An agreement to permit disclosure under protective order, accompanied by a brief non-confidential statement describing the confidential data submitted, which need not be as detailed as the summary provided under paragraph (a)(1) of this section. Should the information concerned not be released under an administrative protective order, the person submitting the information must, unless he requests that the information be returned and not considered in the proceeding, submit either a summary or approximated presentation conforming to paragraph (a)(1) of this section or a statement under paragraph (a)(2) of this section within the time period specified in the denial of the request for an administrative protective order. The requirements of the preceding sentence do not apply where the Secretary, because of unusual circumstances determines that a less detailed non-confidential summary is appropriate. In such unusual circumstances such less detailed summary as deemed appropriate by the Secretary must be submitted.

(b) *Return of information as a result of non-conforming requests.* Any information for which confidential treatment is requested which does not conform to the requirements of paragraph (a) of this section (including the requirement that any summary or approximated presentation be sufficiently full and descriptive) may be returned to the submitting person, together with an explanation of the reasons it is non-conforming, and will not be considered in connection with the proceeding. Information so returned may be resubmitted with a new request for confidential treatment which complies with the requirements of this section, and will be dealt with in the same manner as an original submission of information accompanied by a request in acceptable form, if received within the time for the original submission. Belated submissions may be rejected.

(c) *Consideration of requests.* While a determination as to whether to grant a request for confidential treatment is pending, the information for which confidential treatment is requested shall be treated as confidential by the Department. A determination normally shall be made within 10 business days after the receipt of information accompanied by a conforming request for confidential treatment, whether, and, if so, to what extent, the request for confidential treatment shall be granted and whether claims submitted under paragraph (a)(2) of this section are justified.

(d) *Treatment of information where request for confidential treatment is granted.* (1) If a request for confidential treatment of information is granted, the information covered thereby will not be made available, except pursuant to § 353.30, for inspection or copying:

(i) By any person other than an officer or employee of the United States Government directly involved with carrying out the investigation in connection with which the information is submitted, or

(ii) By a person who has been specifically authorized to receive such information by the person who requests the confidential treatment.

(2) Information for which confidential treatment is granted shall be made available to officers and employees of the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

(3) Information submitted in confidence by a foreign government shall be made available only to the extent, and under the procedures, provided in Executive Order 12065 of June 28, 1978 (43 FR 28949), or any superseding or amending Order.

(e) *Treatment of information where request for confidential treatment is denied.* Should it be determined that any part of the material for which confidential treatment has been requested (1) does not warrant confidential treatment in whole or in part, (2) is in a form which cannot reasonably be associated with, or otherwise used to identify, the operations of a particular person and thus should not be treated as confidential, or (3) that information claimed not susceptible to a non-confidential summary is in fact capable of such treatment, the Department shall notify the person who submitted the information. Unless the person submitting the information thereafter agrees that the information (including any summarized or approximated presentation thereof) may be treated as non-confidential information, or provides a summary of matters found to be capable of such treatment, such information (including any summarized or approximated presentation thereof) shall be returned to the submitting person and not considered in the proceeding.

§ 353.29 Standards for determining confidentiality of information.

(a) *In general.* Information ordinarily will be considered to be privileged or confidential only if its disclosure would be likely:

(1) To cause substantial harm to the competitive position of the person submitting the information;

(2) To have a substantial adverse effect upon the person supplying the information or upon the person from whom the information was obtained; or

(3) To impair the ability of the United States Government to obtain in the future necessary information, not required by law to be provided, from the same person or others similarly situated.

(b) *Information ordinarily regarded as appropriate for disclosure.* Except as provided in paragraph (c) of this section information ordinarily will be regarded as appropriate for disclosure if it relates to:

(1) Prices, market conditions, terms of sale or similar information that is published or otherwise available to the public;

(2) Laws, regulations, Executive Orders, or other official documents which are published in the country by which adopted, as well as translations thereof; or

(3) Information submitted by the petitioner or other domestic interested party concerning the operations of a foreign interested party, except to the extent that it might disclose the identity of confidential sources.

(c) *Information ordinarily regarded as privileged or confidential.* Information ordinarily will be regarded as privileged or confidential if it would disclose:

(1) Business or trade secrets;

(2) Production costs;

(3) Distribution costs;

(4) Prices of actual transactions or offers;

(5) The names of particular customers or suppliers; or

(6) The names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested and approved by the Secretary.

§ 353.30 Limited disclosure of certain confidential information under an administrative protective order.

(a) *In general.* (1) Any confidential information (other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order), including some or all of the information described in § 353.29(c), may be made available to an attorney or other representative under a protective order as described in paragraph (b) of this section. Forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this regulation will be made available. The application for disclosure pursuant to protective order filed by an attorney or other representative of a party to the proceeding must:

(i) Describe with particularity the information requested and set forth the reasons for the request;

(ii) Indicate the procedures to be followed to avoid unauthorized disclosure of the information requested; and

(iii) Demonstrate good cause for release of such information.

(2) Upon receipt of an application for disclosure of confidential information under a protective order, the Secretary will inform the person from whom the information was obtained of the request and provide an opportunity for such person to comment thereon.

(3) In determining whether to release information under a protective order, the Secretary shall weigh whether the need of the person requesting the information outweighs the need of the person submitting it for continued confidential treatment. Account also shall be taken of the probable effectiveness of the sanctions described under paragraph (e) of this section, or other sanctions as may be prescribed for breach of the order. Generally, disclosure under a protective order will be made only to attorneys who are subject to disbarment from practice in the event of a violation of the order.

(4) Should it be determined to release information under a protective order, the person submitting the information will be so notified. If the person submitting the information does not agree to the release of the information under protective order, such information shall be returned to the submitted person and not considered in the proceeding.

(b) *Protective order.* The protective order under which information is made available to the attorney or other representative of a party to the proceeding shall require that attorney or representative to submit a personal sworn statement that he will:

(1) Not divulge any of the information so obtained and not otherwise available to him to any other person other than:

(i) Personnel of agencies of the United States Government directly responsible for conducting the proceeding in question who are involved in such proceeding;

(ii) The person from whom the information was obtained;

(iii) An attorney in good standing employed on behalf of the party requesting the disclosure who has furnished an appropriate, similar statement; or

(iv) Those persons other than attorneys employed by or supervised by the attorney or representative (but in no case including officers, partners, associates and employees of the party represented or any other domestic competitor of the foreign firm whose information is involved) having a need therefore in connection with preparing oral or written statements in the proceeding, who shall have furnished a similar statement;

(2) Use such information solely for the purposes of the proceeding then in progress;

(3) Not consult with any person other than a person described in paragraph (b)(1)(i) or (ii) of this section concerning such confidential information without obtaining the approval of the Department and the party (or the attorney for the party) from whom such confidential information was obtained;

(4) Take adequate precautions to ensure the security of the confidential materials and the information contained therein subject to the protective order; and

(5) Promptly report any breach of such agreement to the Secretary.

(c) *Acknowledgement of sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) of this section shall include an acknowledgement by the person providing it that breach thereof:

(1) May subject the following persons to disbarment from practice before any constituent agency of the Department for up to seven years following publication of a determination that the order has been breached:

(i) The person submitting the statement;

(ii) Any firm of which such person is a partner, associate, or employee; and

(iii) Such person's partners, associates, employer and employees;

(2) Shall, in the case of an attorney, lead to referral of such breach to the ethics panel of the appropriate bar associations; and

(3) Shall subject the offender and the party he represents to such other administrative sanctions determined to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(d) *Final disposition of materials released under protective order.* Upon completion of a proceeding, or at such earlier date as may be determined appropriate for particular data, the security of confidential information shall be protected by requiring each attorney or other representative to return all copies of materials released to them pursuant to this section and all other materials containing the confidential information (such as notes or charts based on any such information received under protective order), accompanied by a certificate from the attorney or representative to whom the material was delivered or disclosed and each person specified in paragraph (b)(1)(iii) or (iv) of this section, attesting to his personal, good faith effort to determine that no other copies of such materials have been made available to or retained by the party he represents or any other person to whom disclosure was not specifically authorized.

(e) *Sanctions for breach of protective order.* (1) The Secretary shall determine whether any person has violated a protective order, and, as a sanction, may:

(i) Bar any such person and any firm of which such person is a partner, associate, or employee, or any partner, associate, employer, or employee of such person, from representing any other person's interest before any constituent agency of the Department in any capacity for a period of up to seven years from the date of publication in the Federal Register of a notice that the existence of a breach has been determined to exist;

(ii) In the case of a violation of this section by an attorney, refer such breach to the ethics panel of the appropriate bar associations; and

(iii) Subject the offender and the party he represents to such other administrative sanctions as are determined by the Secretary to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(2) Any person to whom such sanctions are proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 353.31 Information exempt from disclosure

Information which might otherwise be available under this subpart shall be exempt from disclosure if it relates to any matter which is required to be kept confidential pursuant to privilege, statute or Executive Order. This includes information that has been provided to the United States in confidence by a foreign government or international organization of governments. Such information currently is restricted from disclosure pursuant to Executive Order No. 12065 of June 28, 1978 (43 FR 28949).

Subpart C—Antidumping Procedures and Determinations

§ 353.35 Procedure for self-initiation.

(a) *In general.* Whenever the Secretary determines, from information available to him, that an antidumping investigation is warranted into the question of whether the antidumping duty imposed by section 731 of the Act should be imposed with respect to a particular class or kind of merchandise imported into the United States, he shall, after providing an opportunity for consultation to the signatory or signatories to the Agreement on Antidumping which may be affected by any affirmative determination, publish in the Federal Register a "Notice of Initiation of Antidumping Investigation." The Notice is to include:

(1) A description of the merchandise involved;

(2) The name of the country of exportation to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which the merchandise is produced;

(3) A summary of the information received that would, if found to be accurate, require the imposition of antidumping duties pursuant to section 731 of the Act; and

(4) A statement that the investigation will be terminated without further notice upon publication of a notice of a preliminary or final negative injury determination by the Commission.

(b) *Information provided to the Commission.* Upon initiation of the investigation, the Commission will be notified promptly and will be provided with such information as is available relating to the matter under investigation, including any available information on the amount by which the foreign market value exceeds United States price and the volume of trade. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 353.36 Procedures for initiation by petition.

(a) *Contents of petition.* Any interested party, as defined in subparagraph (C), (D), or (E) of section 771(9) of the Act, who has reason to believe that merchandise imported into the United States is being, or is likely to be, sold at less than fair value, by reason of which an industry in the United States is being or is likely to be materially injured or its establishment is being materially retarded, may file a petition on behalf of an industry pursuant to section 731 of the Act with the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3826, Department of Commerce, Washington, D.C. 20230, requesting the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price. The petition shall contain, or be accompanied by, information, to the extent reasonably available to the petitioner, in substantially the following form:

(1) The name and address of the petitioner and any other person, firm, or association the petitioner represents, if appropriate;

(2) The industry on whose behalf the petition is filed, including the names of other enterprises included in such industry;

(3) A statement indicating whether the applicant has filed, or is filing, for import relief pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), or has initiated proceedings pursuant to section 337 or 702 of the Act (19 U.S.C. 1337, 1671a), section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), or section 301 of the Trade Act of 1974 (19 U.S.C. 2411) with respect to the merchandise which is the subject of the proceeding;

(4) A detailed description of the imported merchandise in question, including its technical characteristics and uses, and, where appropriate, its tariff classification under the Tariff Schedules of the United States;

(5) The name of the country or countries from which the merchandise is being or is likely to be, exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(6) The names and addresses of all known foreign enterprises believed to be manufacturing, producing or exporting the merchandise in question;

(7) All pertinent facts as to the price at which the foreign merchandise is sold or offered for sale in the United States and in the home market in which produced or from which exported, including information concerning transportation and insurance charges, and if appropriate, information regarding sales in third countries or the cost of producing the merchandise. Petitioners unable to furnish information on foreign sales or costs may present information concerning U.S. domestic producers' costs adjusted for differences in the foreign country in question from information publicly available;

(8) If the merchandise is being exported from a country which is considered to be a state-controlled-economy-country, any information pertaining to the price or prices at which such or similar merchandise of a non-state-controlled-economy-country or countries, considered to be comparable in terms of economic development to the state-controlled-economy-country, is sold for consumption in the home market of that country or countries or to other countries (including the United States), or the constructed value of such or similar merchandise in a non-state-controlled-economy-country, determined in accordance with § 353.8;

(9) Evidence, if any, that sales in the home market are being made at a price which represents less than the cost of production of the merchandise, and the circumstances under which such sales are made;

(10) The volume and value of imports of the merchandise from the country in question in the most recent two-year period, and also other periods if the petitioner believes such other periods to be more representative, or, if the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(11) The names and addresses of enterprises believed to be importing the merchandise;

(12) The names and addresses of other enterprises in the United States engaged in the production, manufacture or sale of like merchandise. If numerous, information need not be provided with respect to any enterprises that accounted for less than 2 percent of domestic production, manufacture or sale of such merchandise during the most recent 12-month period;

(13) Information as to the material injury or threat thereof to, or the material retardation of the establishment of, a United States industry by reason of the imported merchandise alleged to be sold at less than fair value, as described in 19 CFR 207.11 and 207.26;

(14) If "critical circumstances" are alleged, information should be presented—(A) as to a history of dumping or (B) that the importer knew or should have known the exporter was selling at less than fair value, and (C) that injury which is difficult to repair is caused by reason of massive imports in a relatively short period; and

(15) Any documentation on which petitioner relies in making its petition.

Forms for the submission of petitions may be adopted from time to time. The use of such forms shall not be mandatory, provided the information required thereby and reasonably available to the petitioner is otherwise included in the petition.

(b) *Translations to English*. Unless such requirement is waived in individual cases, any information submitted in the petition or in support thereof, which is in a foreign language, must be accompanied by an English translation.

(c) *Simultaneous filing with Commission*. The Petitioner shall file a copy of the petition with the Commission on the same day as the petition is filed with the Secretary and shall so certify in submitting the petition to the Secretary.

(d) *Confidentiality of information*. Any petition which contains information for which confidential treatment has been requested and which is essential to support the petition will not be considered to have been received in acceptable form unless the requirements of § 353.28(a) are met.

(e) *Amendment of petition*. Upon timely receipt of additional information, the Secretary shall allow amendment of the petition. Any such amendments must be filed with the Commission on the same day as they are filed with the Secretary.

(f) *Form and number of copies*. The petition and, to the extent feasible, all supporting information, shall be submitted on letter-size paper, double spaced, typewritten or printed, in at least 10 copies.

(g) *Notification of affected country's representative*. Upon receipt of a petition, a non-confidential copy with a non-confidential summary of confidential data contained in the petition shall promptly be delivered to a representative in Washington, D.C. of the affected country or countries in which merchandise subject to the investigation is manufactured or produced.

(h) *Additional information concerning requirements for petitions*. Additional information concerning requirements for petitions may be obtained by contacting the office of the Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230; (202) 377-2867.

§ 353.37 Determination of sufficiency of petition.

(a) *Determination of sufficiency*. Within 20 days after a petition is filed under § 353.36, a determination shall be made by the Secretary on the sufficiency of the petition. A petition is considered to be filed at the time it is received by the Secretary.

(b) *Notice*. If a petition properly alleges the basis on which antidumping duties may be imposed under section 731 of the Act, contains information reasonably available to the petitioner supporting the allegations, and is filed by an interested party described in section 771(9)(C), (D) or (E) of the Act, an investigation shall be initiated and a notice of "Initiation of Antidumping Investigation" shall be published in the Federal Register. Unless otherwise stated in the notice, the investigation will relate to all merchandise of the class or kind in question from the exporting country. The notice shall contain a description of the merchandise subject to the investigation, based on consultation between the Secretary and the Commission.

(c) *Insufficiency of petition*. If it is determined that a petition does not properly allege the basis on which antidumping duties may be imposed under section 731 of the Act, does not contain information deemed reasonably available to the petitioner supporting the allegations, or is not filed by an interested party described in section 771(9) (C), (D) or (E) of the Act, the petition shall be dismissed and the proceeding terminated. The petitioner shall be notified in writing of the reasons for dismissal, and a notice of "Dismissal of Antidumping Petition" shall be published in the Federal Register, which shall summarize the reasons for dismissal of the petition.

(d) *Notice to Commission.* A copy of any determination hereunder shall be furnished promptly to the Commission. If the investigation is initiated, such information as has been received relating to the matter under investigation shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 353.38 Full-scale investigation.

(a) Upon publication of the notice of "Initiation of Antidumping Investigation," the Secretary shall proceed promptly to obtain such information as may be necessary for preliminary and final determinations of sales at less than fair value. The Secretary normally will examine at least 60 percent of the dollar volume of exports to the United States from any country subject to an antidumping investigation. Ordinarily the Secretary will require a foreign manufacturer, producer, or exporter subject to the investigation to submit pricing information covering a period of at least 150 days prior to, and 30 days after, the first day of the month during which the petition was received in acceptable form. The Secretary may, however, require the submission of pricing information for such other period as he deems necessary and he may also require the submission of pricing information on a current basis during the course of an investigation. Where appropriate, cost information also will be required.

(b) When the Secretary examines less than 85 percent by dollar volume of the exports to the United States of the merchandise subject to the investigation, the Secretary will inform interested exporters of such merchandise of which exporters and what percentage of total exports to the United States are being examined.

§ 353.39 Preliminary determinations.

(a) *In general.* Within 160 days after the date on which a petition is filed under section 732(b) of the Act, or an investigation is commenced under section 732(a) of the Act, but not before an affirmative preliminary determination by the Commission under section 733(a) of the Act.

(1) A preliminary determination shall be made, based upon the best information available at the time of the determination, as to whether there is a reasonable basis to believe or suspect that foreign merchandise which is the subject of the investigation is being sold or is likely to be sold at less than fair value; and

(2) If the determination is affirmative, the amount by which the foreign market value exceeds the United States price shall be estimated and stated.

Notice of the determination, the parties affected, and the estimated amount by which the foreign market value exceeds the United States price shall published in the Federal Register. The determination shall be mailed or otherwise delivered to all parties to the proceeding and the Commission.

(b) *Request for extension by petitioner.* If a request for an extension, stating the reasons for the request, is received from the petitioner no later than 25 days before the preliminary determination would otherwise be required under section 733(b) of the Act, the preliminary determination may be postponed until not later than the 210th day after the date on which the petition is filed. Upon acting on such a request, a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, stating that it has been made at the petitioner's request.

(c) *Extraordinarily complicated cases.* (1) If a case is determined to be extraordinarily complicated, the preliminary determination shall be made no later than the 210th day after the petition is filed under section 732(b) of the Act, or an investigation is commenced under section 732(a) of the Act.

(2) Any determination that a case is "extraordinarily complicated" shall be based on express findings that:

(i) The importing and exporting parties are cooperating with the investigation;

(ii) The case is extraordinarily complicated by reason of (A) the number and complexity of the transactions under investigation or the adjustments to be considered, (B) the novelty of the issues presented, or (C) the number of firms whose activities must be investigated; and

(iii) Additional time is needed to make the preliminary determination.

(3) All parties to the proceeding shall be notified in writing of any determination to treat the case as "extraordinarily complicated" not later than 20 days before the date on which the preliminary determination would otherwise be required under section 733(b) of the Act. Upon making such a determination, a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, which notice shall summarize the reasons for the postponement.

(d) *Waiver of verification.* Within 75 days after the initiation of an investigation, an official designated for such purpose by the Secretary shall review the information received during the first 60 days of the investigation. If this official (who shall not be the official responsible for making the preliminary determination) concludes that there appears to be sufficient information available upon which the preliminary determination can reasonably be based, all nonconfidential information and all other information available under section 777 of the Act shall be disclosed to the petitioner and any other party to the proceeding that requests such disclosure. Within 3 working days after such disclosure, the petitioner and each domestic party to whom such disclosure was made may furnish an irrevocable written waiver of verification of the information received by the Secretary and an agreement that it is willing to have a preliminary determination made on the basis of the record then available to the Secretary. If a timely waiver and agreement have been received from the petitioner and each domestic party to whom the disclosure was made, and the Secretary finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made within 90 days after the commencement of the investigation on the basis of the record established during the first 60 days after the investigation was commenced.

(e) *Contents of preliminary determination.* The preliminary determination shall include conclusions with regard to all facts and issues of law considered material to the determination, the name of the petitioner and of the industry on whose behalf the petition was filed, a description of the merchandise involved, the name of the country of exportation, and, if practicable, the names of the foreign manufacturers, producers, or exporters. If affirmative, the determination shall:

(1) Order the suspension of liquidation of all entries of merchandise subject to the determination which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register; and

(2) Impose provisional measures by requiring a case deposit, or the posting of a bond or other security for each entry of the merchandise concerned equal to the estimated amount by which the foreign market value exceeds the United States price. The posting of a bond or other security will be deemed adequate unless the revenue will not be sufficiently protected.

(f) *Commission access to information.* All information upon which the determination was based and which the Commission may consider relevant to its injury determination shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 353.40 Critical circumstances determinations.

(a) *Determination.* If, not less than 30 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then at the time the preliminary determination is made or, if such determination is due within 20 days or has already been made, then within 1 month after the allegation is received, a determination shall be made, on the basis of the best information available at the time, whether there is a reasonable basis to believe or suspect that:

(1)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(2) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

If, not more than 30 but not less than 20 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then no preliminary determination as to critical circumstances shall be made. A finding as to critical circumstances shall be included pursuant to § 353.44(c) in the Affirmative Final Determination. In making such determination, account shall be taken of departures in the ratio of import penetration of the subject merchandise and historical patterns of importation.

(b) *Notification of Commission.* The Commission shall be notified promptly of any determination under this section.

(c) *Suspension of liquidation.* Upon an affirmative preliminary determination of critical circumstances, any suspension of liquidation ordered under section 733(d)(1) of the Act shall apply, or if notice of suspension of liquidation has already been published, such suspension shall be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(d) *Publication of notice.* Upon an affirmative preliminary determination of critical circumstances, notice thereof shall be published in the Federal Register, either as part of the notice of preliminary determination, or, if the preliminary determination already has been published, as a separate notice of "Preliminary Determination of Critical Circumstances."

§ 353.41 Termination of investigation.

(a) *Termination upon withdrawal of petition.* An antidumping investigation may be terminated at any time upon withdrawal by the petitioner of the petition on which the investigation was initiated, after notice to all other parties to the proceeding and consultation with the Commission. No investigation shall be terminated unless it is determined such termination is in the public interest. Notice of any termination shall be published in the Federal Register, together, where appropriate, with a copy of any correspondence exchanged with the petitioner on the basis of which the petitioner withdrew the petition and the investigation was terminated.

(b) *Termination upon negative determination.* An investigation shall be deemed terminated, without further comment or action, upon publication of any negative final determination, or a negative preliminary or final determination by the Commission on the issue of injury.

§ 353.42 Suspension of investigation.

(a) *Agreements to eliminate completely sales at less than fair value or to cease exports.* An investigation may be suspended at any time before a final determination if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of the merchandise which is the subject of the investigation agree:

(1) To cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

(2) To revise their prices promptly to eliminate completely any amount by which the foreign market value of the merchandise which is the subject of the agreement exceeds the United States price of that merchandise.

(b) *Agreements eliminating injurious effect*—(1) *Generally.* An investigation may be suspended at any time before a final determination upon acceptance of an agreement to revise prices from exporters accounting for substantially all of the imports of the merchandise which is the subject of the investigation, if it is determined:

(i) Extraordinary circumstances are present; and

(ii) The agreement will eliminate completely the injurious effect of the exports to the United States of the merchandise which is the subject of the investigation.

(2) *Additional requirements.* No agreement under this subsection may be accepted unless:

(i) The suppression or undercutting of price levels of like domestic products by imports of the merchandise will be prevented; and

(ii) For each entry of each exporter the amount by which the estimated foreign market value exceeds the United States price will not exceed 15 precent of the weighted average amount by which the estimated foreign market value exceeded the United States price for all less-than-fair-value entries of the exporter examined during the course of the investigation.

(c) *Definition of "substantially all."* For purposes of section 734(b) and (c) of the Act, exporters who account for "substantially all" of the imports in question shall mean exporters who have accounted for no less than 85 percent by volume of the subject merchandise imported into the United States during the period of investigation, or such other recent, representative period determined appropriate. The number and identity of affected exporters shall be considered no less frequently than once annually in connection with the determination required under section 751 of the Act, and, if appropriate, additional or different exporters may be required to furnish assurances to ensure continued applicability of the assurance to the requisite percentage of the affected trade.

(d) *Definition of "extraordinary circumstances."* For purposes of section 734(c) of the Act, "extraordinary circumstances" shall mean circumstances in which: (1) Suspension of the investigation will be more beneficial to the domestic industry than continuation of the investigation, and (2) the investigation is complex. For purposes of this section, "complex" shall mean there are a large number of transactions to be investigated or adjustments to be considered, the issues raised are novel, or the number of firms involved is large.

(e) *Monitoring of agreements.* No agreement under section 734 of the Act shall be accepted unless effective monitoring of the agreement is practicable. In accepting assurances and in monitoring compliance therewith, the Secretary shall not be obliged to ascertain on a continuing basis the level of domestic prices of merchandise like that covered by the agreement.

(f) *Public interest.* No agreement under section 734 of the Act shall be accepted unless the agreement is determined to be in the public interest.

(g) *Exports not to increase during interim period.* No agreement to cease exports to the United States under section 734(b)(1) of the Act shall be accepted unless that agreement provides an adequate means of ensuring that the quantity of the merchandise covered by that agreement and exported to the United States during the period provided for cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined to be approprriate to the case. In ordinary circumstances, the representative period shall refer either to the six months preceding the month in which the petition was filed or the comparable six month period of a year earlier, whichever more accurately reflects the historical level of importation absent import surges. If the level of exports to the United States exceeds the volume exported during the period determined most representative, then the agreement may be deemed violated and the provisions of § 353.43 will be applicable.

(h) *Procedures for suspension of investigations.* Prior to accepting any agreement under section 734:

(1) The petitioner shall be notified and consulted with concerning the Secretary's intention to suspend the investigation. A copy of the proposed agreement shall be furnished to the petitioner no less than 30 days prior to the proposed suspension of the investigation. Any such agreement shall contain the procedures to be followed to monitor compliance, and a statement of the compatibility of the agreement with the requirements of subsections (b) and (d) or (c) and (d) of section 734 of the Act;

(2) All parties to the proceeding shall be notified of the proposed suspension not less than 30 days prior thereto; and

(3) All parties to the proceeding and other government agencies which may have an interest in the effects of the agreement shall be afforded an opportunity to submit written comments and information for the record with respect to the proposed suspension.

(i) *Issuance of an affirmative preliminary determination.* Upon acceptance of an agreement to suspend an investigation, a "Notice of Suspension of Antidumping Investigation" shall be published in the Federal Register, including a summary of the principal provisions of the agreement on the basis of which the investigation was suspended. Unless an Affirmative Preliminary Determination has already been issued, an "Affirmative Preliminary Determination" shall be published together with the notice suspending the proceeding.

(j) *Suspension of liquidation*—(1) *Cessation of exports; complete elimination of dumping margin.* If an agreement is accepted which provides for the cessation of exports or complete elemination of a dumping margin of merchandise exported to the United States, pursuant to section 734(b) of the Act, then, notwithstanding the issuance of an Affirmative Preliminary Determination, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If liquidation has previously been suspended in the investigation, such suspension shall, without further comment or action, terminate on the date the notice is published and estimated antidumping duties shall be refunded, or appropriate bonds or other security shall be released.

(2) *Other suspension agreements.* Agreements to suspend an investigation other than those described in paragraph (j)(1) of this section shall not affect the suspension of liquidation of entries of merchandise (except that the security required may be adjusted to reflect the effect of the agreement) until the Commission has completed its review of the suspension agrement, if such review is requested. If no request for review of suspension is received by the Commission within 20 days after the "Notice of Suspension of Antidumping Investigation" is published, the suspension of liquidation shall, without further comment or action, terminate on the 21st day after such publication.

(k) *Commission review.* Where the Commission, having undertaken a review of an agreement to suspend an investigation other than one described in paragraph (j)(1) of this section, makes a negative determination, the Secretary shall resume his investigation on the date of publication of such determination as if the affirmative preliminary determination under § 353.39 had been made on that date. Where the Commission makes an affirmative determination in such a case, the Secretary shall continue the suspension of the investigation and terminate any suspension of liquidation which may then be in effect, and all estimated antidumping duties shall be refunded and all appropriate bonds or other security shall be released.

(1) *Continuation of investigation.* By filing a request with both the Secretary and the Commission on the same date, exporters accounting for a significant proportion of exports to the United Statts of the merchandise which is the subject of the investigation, or the petitioner or any other domestic interested party (within the meaning of subparagraph (C), (D) or (E) of section 771(9) of the Act), which is a party to the proceeding, may, during the 20-day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon receiving such a request, the Secretary and Commission shall continue the investigation. If, as a result of such continued investigation, a Final Negative Determination is made or the Commission makes a negative injury determination, the investigation shall be terminated, without further comment or action, and notice thereof published in the Federal Register. If an Affirmative Final Determination is made and the Commission makes an affirmative injury determination, the suspension shall remain in effect in accordance with its terms. The provisions of paragraph (j) of this section regarding the suspension of liquidation of entries of merchandise covered by the agreement are unaffected by this subsection.

§ 353.43 Violations of agreements

(a) *In general.* If it is determined that an agreement on the basis of which an investigation was suspended is being, or has been violated, or no longer meets the requirements of subsections (b) and (d) or (c) and (d) of section 734 of the Act:

(1) Liquidation of the unliquidated entries of merchandise shall be suspended effective as of the later of the date which the 90 days before the date of publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption;

(2) If the investigation was not completed, the investigation shall be resumed as if the Affirmative Preliminary Determination was made on the day on which the investigation is resumed;

(3) If the investigation was completed, an Antidumping Duty Order shall be issued, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(4) The petitioner, interested parties who are or were party to the proceeding, and the Commission shall be notified and notice of the determination shall be published in the Federal Register, including a summary of the reasons therefor.

(b) *Notice of possible breach.* If there is reason to believe that an agreement no longer meets the requirements of the Act or that an agreement is being breached and the breach involves a violation of the agreement other than that described in paragraph (c) of this section, each party to the agreement shall be notified at the earliest moment, so that alternative or amended agreements may be considered before the agreement is deemed violated.

(c) *Intentional violations.* The intentional violation of any agreement entered into under this section shall subject any person who is party to the agreement and is determined to have intentionally violated it to the same penalties as for a fraudulent violation of section 592 of the Act (19 U.S.C. 1592). The procedural requirements of section 592 shall be applicable to any action to collect penalties.

§ 353.44 Final determinations.

(a) *In general.* Within 75 days after the date of a preliminary determination, a final determination shall be made whether merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at less than fair value.

(b) *Extension of period.* The final determination may be postponed until not later than 135 days after the date of a preliminary determination where a written request for such a postponement is received, prior to the time the final determination otherwise would be due, from either the exporters who account for a significant proportion of the merchandise which is the subject of the investigation (in proceedings in which the preliminary determination was affirmative) or the petitioner (in proceedings in which the preliminary determination was negative).

(c) *Critical circumstances.* If critical circumstances have been alleged and an affirmative final determination reached, then it shall include a finding of whether:

(1)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(2) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

(d) *Disclosure of information.* Promptly after making the preliminary determination, there shall be disclosed, to each interested party then a party to the proceedings who requests such disclosure, all non-confidential information and, if made available under § 353.30, confidential information, on the basis of which the preliminary determination was made.

(e) *Opportunity of parties to present views.* Prior to the final determination, an opportunity shall be provided for all parties to be heard orally in person or by counsel before a designated official pursuant to § 353.47. Written views will be received from any person at any time, provided that, unless the Secretary or the officer presiding at the hearing otherwise provides for good cause, consideration of written views may be declined if received more than 10 days after the transcript of any hearing is available to the public or less than 30 days before the final determination is due, whichever is earlier.

(f) *Notice of determination.* Notice of the final determination, the parties affected and the estimated margin of dumping, if any, shall be published in the Federal Register. Copies of the determination shall be mailed or otherwise delivered to all parties to the proceeding and the Commission.

(g) *Contents of final determinations.* The final determination shall include conclusions with regard to all facts and issues of law considered material to the determination. If the determination is affirmative, the amount of the dumping margin shall be estimated and stated.

(h) *Effect of negative final determination.* If the final determination is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated antidumping duties shall be refunded and all appropriate bonds or other security shall be released.

(i) *Effect of negative final determination by Commission.* If the final determination by the Commission under section 735(b) of the Act is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated antidumping duties shall be refunded and all appropriate bonds or other security shall be released.

§ 353.45 Exclusion of particular firms.

The Secretary may exclude one or more foreign manufacturers, producers or exporters from an affirmative preliminary, or an affirmative final, determination if he finds that all examined exports of the merchandise in question to the United States by the manufacturer, producer, or exporter in question during the period under consideration were made at prices not less than the fair value of the merchandise concerned. Usually, information on 100 percent of the exports in question will be required to be submitted to support a request for exclusion. In exceptional cases, the Secretary may determine that examination of a lesser percentage (never less than 75 percent) is adequate. A manufacturer, producer, or exporter requesting exclusion, must submit all relevant sales information to permit consideration of the request and verification of the data on which the request is based, whether or not information concerning such sales has been requested by the Secretary. The Secretary also may exclude a foreign manufacturer, producer or exporter, not excluded from an Affirmative Final Determination, from an Antidumping Duty Order, provided the information necessary to support such exclusion is received, verfied, and analyzed by the Department in time to be considered by the Commission in making its final injury determination. The name of any such company which is determined to have satisfied the requirements for exclusion will be published in the Federal Register. Companies not excluded under this section will become subject to an Antidumping Duty Order, should one be issued, and must thereafter petition for exclusion pursuant to the procedures of § 353.54 in order to be excluded from such Order.

§ 353.46 Submission of information and written views.

(a) *Submission of information and written views.* Except in situations where it would be manifestly unjust, any information or written views submitted in connection with a proceeding shall be considered only if received within the time established by these regulations or by specific instructions applicable to any request for information; and information or written views received after such time shall not be considered in the proceeding. Any written views intended to be considered in connection with a proceeding shall be submitted on letter-size paper, double spaced, in at least 10 copies, to the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3826, Department of Commerce, Washington, D.C. 20230. Except when the Secretary determines it will be unduly burdensome to the party to the proceeding, in which case the Secretary shall effect the service, a copy shall also be served at the same time, by mail or personal service, on counsel for each party to the proceeding as of the date of such filing, or if not represented by counsel, then the person designated for such purpose by the party. A certificate of such service shall accompany any such filing.

(b) *Designation of agent.* Every party to the proceeding shall designate a person to receive service of all papers filed in a proceeding. A list of such designated agents shall be made available by the Secretary.

§ 353.47 Hearings.

During the course of an investigation, normally within 30 days after the Preliminary Determination is published, a hearing shall be held, upon the request of any party to the proceeding, to provide interested persons an opportunity to present views orally. Such hearing shall be conducted before a designated official. A verbatim record shall be transcribed and copies of the transcript made available to the public. The hearing shall not be subject to the Administrative Procedure Act, and shall not involve the examination or cross examination of witnesses under oath. At the discretion of the officer conducting the hearing, persons not party to the proceeding, including officials of other agencies or departments of the United States Government, may present views. If not included in the notice of the preliminary determination, notice of such a hearing shall be published in the Federal Register. All requests for hearings shall be accompanied by a statement outlining the issues which the person wishes to discuss. Reasonable notice of the hearing will be given to all parties to the proceeding. One week prior to such a hearing, pre-hearing briefs shall be submitted to the Secretary and exchanged among parties to the proceeding. Persons will be restricted, in their oral presentations, to issues raised in this pre-hearing brief. Any person not submitting such a brief ordinarily will be restricted to rebuttal of points made by other persons. Ordinarily, the presiding officer at a hearing will provide an opportunity for the submission of post-hearing briefs, within the time limits prescribed at the hearing. The Secretary may at any time invite any person to supply him with information or argument.

§ 353.48 Antidumping duty order.

(a) *In general.* Within seven days of notification that the Commission has made an affirmative determination on the issue of material injury, an Antidumping Duty Order shall be published that:

(1) Directs customs officers to assess an antidumping duty on the merchandise found to be sold at less than fair value, equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise, such assessment to be made 6

months after the date on which the Secretary has received satisfactory information upon which such assessment may be based, but in no event later than 12 months after the end of the exporter's annual accounting period within which the merchandise is entered, or withdrawn from warehouse, for consumption, or in the case of merchandise not sold prior to its importation, 12 months after the end of the annual accounting period of the manufacturer or exporter within which it is sold in the United States to a person who is not the exporter of that merchandise;

(2) Includes a description of the class or kind of merchandise to which if applies, in such detail as is deemed necessary; and

(3) Pending liquidation of entries of the merchandise, requires the deposit of estimated antidumping duties at the same time as estimated normal customs duties on that merchandise are deposited.

(b) *Calculation of the amount of the estimated duty to be deposited.* The deposit of estimated antidumping duties for each manufacturer, producer or exporter shall be equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise, as determined in the affirmative final determination of the Secretary or the latest administrative review of such determination under § 353.53, or, if appropriate, under § 353.49.

§ 353.49 Security in lieu of estimated duty pending early determination of duty.

(a) *Conditions for use.* The Secretary may allow, for no more than 90 days after the date of publication of an Antidumping Duty Order under § 353.48, the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under § 353.48(c) if, on the basis of information presented to it by any manufacturer, producer, or exporter within seven days after publication of the Antidumping Duty Order, the Secretary is satisfied that within 90 days after the date of publication of an Order under § 353.48, a determination can be made concerning the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that Order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

(1) An affirmative preliminary determination as to sales at less than fair value; or

(2) If the determination under paragraph (a)(1) of this section was negative, an affirmative final determination as to sales at less than fair value; and before the date of publication of the affirmative final determination by the Commission.

(b) *Notice and hearing.* The Secretary shall publish notice of any determination to allow the posting of security in lieu of the deposit of estimated antidumping duties, and shall, upon the request of any party to the proceeding, hold a hearing before determining the United States price and foreign market value of the merchandise of the foreign manufacturer, producer or exporter.

(c) *Determination used as basis of duty.* The Secretary shall publish notice of the results of the determination of United States price and foreign market value, and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this section applies and shall also be the basis for the deposit of estimated antidumping duties on future entries of merchandise of manufacturers, producers or exporters described in paragraph (a) of this section to which the Order issued under § 353.48 applies.

§ 353.50 Differences in determined and estimated antidumping duties.

If the amount of the estimated antidumping duty deposited pursuant to the Preliminary Affirmative Determination is different from the amount of the antidumping duty to be assessed pursuant to an Antidumping Duty Order, the difference with respect to merchandise entered, or withdrawn from warehouse, for consumption before publication of notice of the Commission's affirmative Final Determination shall be:

(a) Disregarded, to the extent that the estimated duty is less than the duty determined to be assessable under the Order, or

(b) Refunded, to the extent that estimated duties collected were more than the duty determined to be assessable under the Order.

§ 353.51 Verification of information; use of best information available.

(a) Information upon which a final determination is based shall be verified. The methods and procedures used to verify information in a particular case shall be published in the Federal Register in the "Notice of Affirmative Final Antidumping Determination" or "Notice of Negative Final Antidumping Determination," as appropriate.

(b) Whenever information cannot be satisfactorily verified, or is not submitted in a timely fashion or in the form required, the submitter of the information will be notified and the affected determination will be made on the basis of the best information then otherwise available which may include the information submitted in support of the petition. An opportunity to correct inadequate submissions will be provided if the correct submission is received in time to permit proper analysis and verification of the information concerned; otherwise no corrected submission will be taken into account. Where a party to the proceeding refuses to provide requested information, that fact may be taken into account in determining what is the best available information.

(c) In verifying information under this section, access to files, records and personnel may be requested by appropriate officers of the Secretary as part of the verification process. Failure to permit such access may prevent satisfactory verification and require the application of paragraph (b) of this section.

(d) All responses to requests for information must be in English and in the form requested unless such requirement is waived. Failure to supply information in the form requested may require the application of paragraph (b) of this section.

(e) Responses to all questionnaires directed to foreign parties shall be forwarded by air mail or faster means simultaneously to the Secretary and to the U.S. Embassy in the country in question and shall be deemed timely received if received at either office within the time required by any specific request, order or regulation.

§ 353.52 Interest on certain overpayments and underpayments.

Interest shall be payable, at the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of duty is finally payable, or 8 percent, whichever is higher, on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which notice of an affirmative determination by the Commission with respect to that merchandise is published.

§ 353.53 Administrative review of determinations.

(a) *In general.* At least once during each 12-month period beginning on the anniversary of the date an Antidumping Duty Order or notice of suspension of an investigation is published, the Secretary shall determine:

(1) The foreign market value and United States price of each entry of merchandise subject to the Antidumping Duty Order and included within that determination, and the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry; or

(2) The status of, and compliance with, any agreement by reason of which an investigation was suspended.

(b) *Changed circumstances.* (1) Whenever the Secretary receives information concerning, or a request for the review of, an Antidumping Duty Order or Finding or an agreement on the basis of which an investigation was suspended, which shows changed circumstances sufficient to warrant review of such Order, Finding or agreement he shall, before conducting such review, publish a "Notice of Intention to Review Antidumping Duty Order" or "Notice of Intention to Review Suspension Agreement" in the Federal Register. Such Notice shall indicate the merchandise concerned, and any changed circumstances or other significant issues then known which will be considered during the review.

(2) In the absence of good cause shown, no review based on allegations of changed circumstances shall be conducted within 24 months after the date of an Affirmative Final Determination or a determination to suspend an investigation.

(c) *Procedures.* Written views on proposed revisions of an Antidumping Duty Order, including new facts for examination, will be accepted at any time, but unless changed circumstances are alleged, normally will not be processed sooner than 90 days before such redetermination is due for publication. Questionnaires requesting current relevant data normally will be sent 85 days before such date, requesting reply within 30 days of receipt.

(d) *Disclosure and hearings.* A disclosure may be made, generally about 30 days prior to the date the redetermination is due for publication, on request by interested parties then party to the proceeding, to such parties of all nonconfidential information and, where appropriate, pursuant to a protective order, confidential information, on the basis of which the redetermination will be made. Written views may be presented, and an opportunity to present oral views may be requested, by any party to whom disclosure was made. After providing an opportunity for comment by interested parties on the proposed determination, a revised Antidumping Duty Order, including any revised bases for the assessment of duties on the merchandise, shall be published in the Federal Register.

(e) *Investigations which were discontinued prior to January 1, 1980.* With respect to each investigation which was concluded with a discontinuance prior to January 1, 1980, the discontinuance will be reviewed according to the procedures of section 751 of the Act and continued, modified, or terminated, as appropriate. Until modified or terminated each discontinuance will remain in effect.

§ 353.54 Revocation of antidumping duty orders and termination of suspended investigations.

(a) *In general.* Whenever the Secretary determines that sales of merchandise subject to an Antidumping Finding or Order or a suspended investigation are no longer being made at less than fair value within the meaning of section 731 of the Act and is satisfied that there is no likelihood of resumption of sales at less than fair value, he may act to revoke or terminate, in whole or in part, such Order or Finding or suspended investigation. Ordinarily, consideration of such revocation or termination will be made only subsequent to a review as described in § 353.53 of this part.

(b) *Application to revoke or terminate.* An application for the revocation of any Finding or Order or the termination of a suspended investigation, premised upon the absence of sales at less than fair value, may be submitted in writing by a party to the proceeding to the Secretary together with detailed information demonstrating that the imported merchandise is no longer being sold at less than fair value. Ordinarily, such an application will be considered only if there have been no sales at less than fair value for at least a two-year period following the date of publication in the Federal Register of an Antidumping Duty Finding or Order or notice of suspension of investigation; provided, however, that where a firm can demonstrate that it has not sold the merchandise at less than fair value during the period of or immediately prior to the investigation (but the firm did not file a timely application for exclusion under § 353.45), the two-year period shall begin on the date of the preliminary determination regardless of whether that determination was affirmative or negative.

(c) *Revocation or termination by the Secretary.* The Secretary may on his own initiative revoke a Finding or Order or terminate a suspended investigation after three years if he is satisfied that (1) there is no likelihood of resumption of imports of the merchandise to the United States the sale of which has been made at less than fair value, or (2) the sales at less than fair value have been eliminated, or (3) other changed circumstances warrant a revocation of the Finding or Order or the termination of a suspended investigation.

(d) *Revocation or termination based upon injury reconsideration.* [Reserved]

(e) *Notice of revocation or termination.* If it appears to the Secretary from his review under section 751 of the Act and on application filed pursuant to paragraph (a) of this section (or from his own determination under paragraph (b) of this section) that a revocation or termination may be appropriate, he will publish a " Notice of Tentative Determination to Revoke or Terminate." Before the Secretary may tentatively revoke a Finding or an Order or terminate a suspended investigation pursuant to paragraph (a) of this section, the parties who are subject to the revocation or the termination must agree in writing to an immediate suspension of liquidation and reinstatement of the Finding or Order or continuation of the investigation, as appropriate, if circumstances develop which indicate that the merchandise thereafter imported into the United States is being sold at less than fair value. Opportunity for interested parties to present views with respect to the tentative revocation will be provided.

(f) *Final determination.* As soon as possible after publication of a "Notice of Tentative Determination to Revoke or Terminate" the Secretary will determine whether final revocation or termination is warranted. In cases where an application for a revocation or termination is based on the absence of sales at less than fair value with respect to the imported merchandise and the dispositive date for establishing a two-year period of no sales at less than fair value is the date of publication of the Finding or Order, the Secretary may determine that a final revocation or termination is warranted only if the firm involved provides information showing no sales at less than fair value with respect to the subject merchandise up to the date of publication of the "Notice of Tentative Determination to Revoke or Terminate." Ordinarily, a revocation or termination will be effective with respect to all merchandise which is the subject of the revocation or termination, entered, or withdrawn from warehouse, for consumption on or after the date on which the "Notice of Tentative Determination to Revoke or Terminate" is published in the Federal Register. The liquidation of all merchandise which is the subject of a tentative revocation or termination and which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of the "Notice of Tentative Determination to Revoke or Terminate," will be ordered suspended pending the final determination on revocation or termination.

§ 353.55 Reimbursement of antidumping duties.

(a) *General.* In calculating the United States price there shall be deducted the amount of any antidumping duties which are, or will be, paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly, but a warranty of nonapplicability of antidumping duties entered into before the initiation of the investigation, will not be regarded as affecting United States price if it was granted to an importer with respect to merchandise which was:

(1) Purchased, or agreed to be purchased, before publication of a notice in which liquidation was suspended with respect to such merchandise; and

(2) Exported before a final determination of sales at less than fair value is made.

Ordinarily, the deduction for reimbursement of antidumping duties shall be made only once in the calculation of the United States price of any entry of merchandise subject to an Antidumpting Duty Order.

(b) *Certificate.* A certificate in the form set forth below shall be filed by any importer of merchandise subject to an Antidumping Duty Order with the district director of Customs in the district in which such merchandise is, or is intended to be, imported within 30 days after the earlier of (1) publication of the Order or any administrative review thereof pursuant to § 353.53, or, if appropriate, § 353.49, or (2) importation of the merchandise in a district in which not previously imported:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller or exporter of all or any part of the antidumping duties assessed upon the following importation of _____ (commodity) from _____ (country): (List entry numbers) which have been purchased on or after _____ (date of publication of notice suspending liquidation in Federal Register) or purchased before _____ (same date) but exported on or after _____ (date of final determination of sales at less than fair value).

(c) *Presumption.* The failure to file the certificate required in paragraph (b) may result in a presumption of reimbursement.

§ 353.56 Conversion of currencies.

(a) *Rule for conversion.* In determining the existence and amount of any difference between the United States price and the fair value or foreign market value for the purposes of this part or of the Act, any necessary conversion of a foreign currency into its equivalent in United States currency shall be made in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended (31 U.S.C. 372):

(1) As of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison; or

(2) As of the date of exportation, if the exporter's sales price is an element of the comparison.

(b) *Special rules for fair value investigations.* For purposes of fair value investigations, manufacturers, exporters, and importers concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between the prices being compared resulting solely from such exchange rate fluctuations will be taken into account in fair value investigations.

§ 353.57 Entered value not controlling.

The fact that the importer has indicated, on entry, the difference between the United States price and the foreign market value and the district director of Customs has approved the resulting entered value shall not prevent the assessment of the antidumping duty.

Annex I—*Antidumping Duty Findings and Orders Currently in Effect*

Merchandise	Country	T.D.	Modified by—
Portland cement, other than white, nonstaining portland cement	Sweden	55369	
	Belgium	55428	
Portland cement, other than white, nonstaining portland cement	Dominican Republic	55883	
Steel reinforcing bars	Canada	55150	
Carbon steel bars and structural shapes	......do	55264	
Steel jacks	......do	66-191	
Titanium sponge	U.S.S.R.	68-212	
Pig iron	......do	68-261	
Do	Czechoslovakia	68-262	
Do	East Germany	68-263	
Do	Romania	68-264	
Potassium chloride, otherwise known as muriate of potash, except that produced and sold by U.S. Borax Chemical Co., Kalium, Saskatchewan, Canada; Kalium Chemicals, Ltd., Regina, Saskatchewan, Canada; Potash Co. of Canada, Ltd., Lanigan, Saskatchewan, Canada; Potash Co. of America, Saskatoon, Saskatchewan, Canada; International Minerals and Chemicals Corp.; Libertyville, Ill., U.S.A.; and CF Industries, Inc., Chicago, Ill., U.S.A.	Canada	69-265	74-157
Same as above, except that produced and sold by Brockville Chemical Industries, Ltd., Montreal, Quebec, Canada; Hudson Bay Mining & Smelting Co., Ltd., Toronto, Ontario, Canada; Swift Canadian Co., Ltd., Etobicoke, Ontario, Canada; and Cominco, Ltd., Vancouver, British Columbia, Canada.	......do		76-219
Same as above, except that produced and sold by Duval Corp. of Canada, Saskatoon, Saskatchewan; Amax Potash, Ltd., Esterhazy, Saskatchewan.	......do		77-202
Same as above, except that produced and sold by Potash Corporation of Saskatchewan.	......do		80-18
Steel bars, reinforcing bars, and shapes manufactured by the Broken Hill Proprietary Co., Ltd., Melbourne, Australia.	Australia	70-81	
Tuners (of the type used in consumer electronic products), except (i) those produced and sold by Matsushita Trading Co., Ltd., (ii) those produced and sold by Victor, Co. of Japan, Ltd., (iii) those produced and sold by Tokyo Shibaura Electric Co., Ltd., (iv) those produced and sold by Sanyo Electric Co., Ltd., and Sanyo Electric Trading Co., Ltd., and (v) those sold by Sony Corp. of Japan.	Japan	70-257	75-80, 76-143, 76-215, 77-26
Television receiving sets, monochrome and color, except sets produced and sold by Sony Corp. of Japan.	......do	71-76	75-40
Ferrite cores (of the type used in consumer electronic products)	......do	71-84	
Ceramic wall tile, except that produced and sold by Pilkington's Tiles Sales Ltd., Manchester, England.	United Kingdom	71-129	74-169
Clear plate and float glass	Japan	71-130	
Clear sheet glass	......do	71-131	
Pig iron	West Germany	71-192	
Pig iron, except that produced and sold by Quebec Iron & Titanium Corp., Sorel, Quebec, Canada.	Canada	71-193	75-107
Pig iron	Finland	71-194	
Clear sheet glass	Taiwan	71-226	
Tempered sheet glass	Japan	71-247	
Clear sheet glass weighing over 16 oz/ft^2	Italy	71-294	
Ice cream sandwich wafers	Canada	72-77	
Diamond tips for phonograph needles	United Kingdom	72-91	
Fish netting of manmade fibers	Japan	72-158	
Large power transformers	France	72-160	
Large power transformers, except those produced and sold by Asgen Ansaldo San Giorgio, Compagnia Generate S.p.A. and Societa Nazionale delie Officine di Savigilano.	Italy	72-161	79-89
Large power transformers	Japan	72-163	
Large power transformers, except those produced and sold by Ferranti, Ltd., Manchester, England; Hawker Siddley Electric Export, Ltd., London, England; and Parsons Peebles Power Transformers, Ltd., Edinburgh, Scotland.	United Kingdom	72-164	76-102
Elemental sulphur, except that produced and sold by Azufrera Pan-American S.A.	Mexico	72-179	78-13
Cadmium	Japan	72-206	
Instant potato granules	Canada	72-263	

Annex I—*Antidumping Duty Findings and Orders Currently in Effect*—Continued

Merchandise	Country	T.D.	Modified by—
Dry-cleaning machinery	West Germany	72-311	
Bicycle speedometers	Japan	72-322	
Canned Bartlett pears	Australia	73-84	
Roller chain, other than bicycle	Japan	73-100	
Stainless steel plate, except shipments by Stora Kopparbergs Bergslags AB, Falun, Sweden.	Sweden	73-157	
Synthetic methionine	Japan	73-188	
Printed vinyl film	Brazil	73-232	
Do	Argentina	73-233	
Stainless steel wire rods, except those produced by Creusot-Loire of Paris, France.	France	73-243	
Steel wire rope, except brass electroplated steel truck tire cord of cable construction.	Japan	73-296	
Polychloroprene rubber	do	73-333	
Elemental sulphur, except shipments produced and sold by Texasgulf, Inc., and Canadian Occidental Petroleum, Ltd.	Canada	74-1	
Expanded metal, of base metal	Japan	74-29	
Calcium pantothenate, except shipments produced and sold by Fuji Chemical Industries, Ltd.	do	74-34	
Racing plates (aluminum horseshoes)	Canada	74-77	
Picker sticks	Mexico	74-166	
Electric golf cars	Poland	75-288	
Birch 3 ply doorskins	Japan	76-48	
Tapered roller bearings, including inner race or cone assemblies and outer races or cups, exported to and sold in the United States, either as a unit or separately.	do	76-227	
Acrylic sheet, other than that produced and sold by Mitsubishi Rayon Company, Ltd.	do	76-240	
Melamine in crystal form	do	77-54	
Metal-walled aboveground swimming pools	do	77-223	
Parts for self-propelled bituminous paving equipment	Canada	77-222	
Pressure sensitive plastic tape measuring over 1-3/5 inch in width and not exceeding 4 mills in thickness, except that manufactured and exported by Plasturopa—SIPA S.a.S. Montemurio (Florence), Italy.	Italy	77-258	
Animal glue and inedible gelatin	The Netherlands	78-2	
Animal glue and inedible gelatin, except that produced and sold by Elektrochemische Fabrik Kempen G.m.b.H.	West Germany	78-1	
Animal glue and inedible gelatin	Yugoslavia	78-4	
Animal glue and inedible gelatin	Sweden	78-3	
Railway track maintenance eqiupment consisting of ballast regulators and tampers only.	Austria	78-61	
Impression fabric of manmade fiber, finished, whether slit or uncut, and not inked, except that produced and sold by Asahi Chemical Industry Co., Ltd., and the Shirasaki Tape Co., Ltd., Japan.	Japan	78-143	
Carbon steel plate	do	78-150	
Polyvinyl chloride sheet and film, other than that produced by Ocean Plastics Co., Ltd., and China Gulf Plastics Corp.	Taiwan	78-219	
Vicose rayon staple fiber	Belgium	78-469	
Steel wire strand, other than that produced by Kawatotsu Wire Products Co., Ltd.	Japan	78-487	
Vicose rayon staple fiber	Finland	79-87	
Vicose rayon staple fiber	France	79-88	
Bicycle tires and tubes	Republic of Korea	79-115	
Perchlorethylene	France	79-149	
Do	Belgium	79-150	
Do	Italy	79-151	
Carbon steel plate	Taiwan	79-166	
Sugar	Belgium	79-167	
Do	France	79-167	
Do	Federal Republic of Germany	79-167	
Rayon staple fiber	Italy	79-168	
Methyl alcohol	Canada	79-210	
Condenser paper	Finland	79-245	
Do	France	79-247	

PART 355—COUNTERVAILING DUTIES

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Authority: 5 U.S.C. 301 and the Trade Agreement Act of 1979, Pub. L. 96-39, sec. 3(b), 93 Stat. 148.

Source: 44 FR 4937, Jan. 22, 1980, unless otherwise noted.

§ 355.0 Scope.

This part sets forth procedures and rules applicable to proceedings under section 303 and Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1303 *et seq.*) (hereinafter referred to as "the Act") relating to the imposition of countervailing duties. The regulations established in this part shall be applicable under section 303 of the Act except that in the case of any imported article or merchandise which is dutiable—

(a) No determination by the Commission under sections 703(a), 704, or 705(b)(1) of the Act shall be required;

(b) No investigation may be suspended under section 704(c) of the Act, and § 355.31(b) and related sections hereof shall be inapplicable;

(c) No determination of critical circumstances shall be made, and § 355.29 hereof shall be inapplicable;

(d) No injury information need be contained in the petition as would otherwise be required by §§ 355.26(a)(12) and (a)(13); and

(e) Wherever the regulations require that allegations or information with respect to the issues of injury and subsidy contained in section 701(a) of the Act be provided, only information or allegations with respect to the question of subsidy in section 701(a)(1) shall be required.

Determinations by the Secretary under the Act shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and Executive Order 12114, January 4, 1979.

Subpart A—Definitions

§ 355.6 Definitions of countervailing duty "proceeding," "investigation," "determination" and "Order."

(a) A "proceeding" refers to that time from the filing of a petition (or publication of a notice of self-initiation under section 702(a) of the Act) until the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) a notice of revocation of an Order.

(b) An "investigation" refers to that time between the publication of a notice of initiation and the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) an Order.

(c) A "determination" is an official decision in the course of a proceeding.

(d) An "Order" is a notice issued following final determinations of subsidy and, when applicable, injury, which provides for the imposition of countervailing duties.

§ 355.7 Other definitions.

(a) *Country.* "Country" means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and may include an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

(b) *Industry.* "Industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product as provided in section 771(4) of the Act.

An "industry" may also include domestic producers in a particular market in the United States where such producers sell all or almost all of their production of the like product in question in that market and where the demand for the like product in that market is not supplied to any substantial degree by producers of the product located elsewhere in the United States.

(c) *Interested Party.* "Interested party" means—

(1) A foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under section 303 of Title VII of the Act or a trade or business association a majority of the members of which are importers of such merchandise;

(2) The government of a country in which such merchandise is produced or manufactured;

(3) A manufacturer, producer, or wholesaler in the United States of a like product;

(4) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; or

(5) A trade or business association, a majority of whose members manufacture, produce, or wholesale a like product in the United States.

(d) *Person.* "Person" includes all "interested parties" as well as other individuals, enterprises or entities, as appropriate to the context.

(e) *Secretary.* "Secretary" means the Secretary of Commerce or his designee.

(f) *Commission.* "Commission" means the U.S. International Trade Commissions.

(g) *Customs Service.* "Customs Service" means the United States Customs Service of the Treasury Department.

(h) *Department.* "Department" means the Department of Commerce.

(i) *Party to the proceeding.* "Party to the proceeding" means:

(1) The petitioner;

(2) The government of the country in which the merchandise subject to the investigation is manufactured or produced, or from which it is exported;

(3) Foreign manufacturers, producers and exporters of the merchandise subject to the investigation; and

(4) Any other interested party, within the meaning of paragraph (c), who informs the Secretary in writing of his intent to become a party to the proceeding within 20 days after the preliminary determination or who demonstrates to the satisfaction of the Secretary good cause for intervention.

(j) *Agreement.* "Agreement" means the "Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Relating to Subsidies and Countervailing Measures), approved under section 2(a) of the Trade Agreements Act of 1979, as the same may be amended, and as such amendments are approved, or otherwise accepted by or for the United States from time to time.

(k) *Act.* "Act" means the Tariff Act of 1930, as amended.

Subpart B—Access to Information

§ 355.15 Information generally available.

(a) *Duty to maintain material in record.* The Department shall maintain the official record of all proceedings. The record shall consist of a copy of all information presented to or obtained by the Secretary during the course of the proceeding, including all governmental memoranda pertaining to the proceeding, memoranda of *ex parte* meetings, all determinations and notices thereof published in the Federal Register, and all transcripts or records of conferences or hearings. (See section 516A(b)(2) of the Act.) The record will contain three types of materials:

(1) Materials protected from disclosure;

(2) Non-confidential material submitted by any person other than an employee or officer of the United States Government; and

(3) Non-confidential and non-privileged material submitted or developed by an employee or officer of the United States Government.

(b) *Examination and copying of information.* In general, all information in subparagraphs (2) and (3) of the record described in paragraph (a) will be available for inspection or copying at the Department by any person during business hours. With respect to documents prepared by an officer or employee of the United States Government, factual matters, as distinguished from advice, recommendations, opinions and evaluations, contained in any such documents will be made available by summary or otherwise on the same basis as information contained in documents submitted by other persons. The fees charged for providing copies of documents shall be the same as for providing copies of documents pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552). (See 15 CFR 4.9).

(c) *Reports of progress of investigation.* The Department shall, from time to time upon request, inform any party to the proceeding of the progress of an investigation. Ordinarily, no such report shall be provided until 60 days after the petition is filed. Such progress reports shall not contain privileged or confidential information and, if in written form, shall be included in the official record.

(d) *Protection of the record.* Unless otherwise ordered in a particular case by the Secretary, the record shall not be removed from the Department. A certified copy of such record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of confidential or privileged information that may be included therein.

§ 355.16 Ex parte meetings.

A written memorandum will be prepared of any *ex parte* meeting between (a) any interested party or other person providing factual information material to a determination in the proceeding and (b) the person to whom the authority to make determinations under Act has been delegated (the Assistant Secretary for Trade Administration) or the person making a final recommendation for decision to such person (the Deputy Assistant Secretary for Import Administration). Such memorandum shall be prepared as expeditiously as possible. It shall be included in the official record. The memorandum of such *ex parte* meeting shall include the date, time and place of the meeting, the identity of all persons present, and a non-confidential summary of the matters discussed or then submitted. Normally this memorandum shall be prepared by one of the Government participants at the meeting. If the Assistant Secretary or Deputy Assistant Secretary directs that the memorandum be prepared by a non-government participant, the Assistant Secretary or Deputy Assistant Secretary (whichever directs preparation by a non-government participant) shall act expeditiously to review, approve and include in the record such memorandum.

§ 355.17 Confidentiality maintained.

Except as provided in § 355.20, information submitted to the Department which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee of the United States Government who is directly concerned with carrying out the investigation in connection with which the information is submitted) without the consent of the person submitting it. (§ 355.18(e) sets forth the procedures followed where a request for confidential treatment is denied, in whole or in part.)

355.18 Requests for confidential treatment of information.

(a) *Submission and contents of requests.* Any person who submits information in connection with a proceeding may request that such information, or any specified part thereof, be treated as confidential. Any information submitted which is not designated as confidential by the person submitting it normally shall not be treated as confidential. Information which is subject to a request for confidential treatment shall be set forth on separate pages and each such page shall be clearly marked "Confidential Treatment Requested." Each separate request for confidential treatment of information, other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order, shall be accompanied by a full statement of the reason or reasons why the submitting party believes that each piece of information subject to such request is entitled to confidential treatment within the guidelines set forth in § 355.19. All requests for confidential treatment shall be accompanied by one of the following:

(1) A summary or approximated presentation of all information which may be disclosed to the public and which is sufficiently full and descriptive of the confidential information (generally, data in numerical form relating to prices and costs of individual forms shall be considered adequately summarized and not incapable of summary—if presented—or capable of being presented—in terms of indices or in figures within 10% of the actual figure);

(2) A statement by the person submitting the information that the information is not susceptible to such a summary or presentation, accompanied by a full statement of the reasons supporting this conclusion; or

(3) An agreement to permit disclosure under protective order, accompanied by a brief nonconfidential statement describing the confidential data submitted, which need not be as detailed as the summary provided under (1) above. Should the information concerned not be released under an administrative protective order, the person submitting the information must, unless he requests that the information be returned and not considered in the proceeding, submit either a summary or approximated presentation conforming to paragraph (a)(1) of this section or a statement under paragraph (a)(2) of this section within the time period specified in the denial of the request for an administrative protective order. The requirements of the preceding sentence do not apply where the Secretary, because of unusual circumstances, determines that a less detailed non-confidential summary is appropriate. In such unusual circumstances such less detailed summary as deemed appropriate by the Secretary must be submitted.

(b) *Return of information as a result of non-conforming requests.* Any information for which confidential treatment is requested which does not conform to the requirements of paragraph (a) (including the requirement that any summary or approximated presentation be sufficiently full and descriptive) may be returned to the submitting person, together with an explanation of the reasons it is nonconforming, and will not be considered in connection with the proceeding. Information so returned may be resubmitted with a new request for confidential treatment which complies with the requirements of this section, and will be dealt with in the same manner as an original submission of information accompanied by a request in acceptable form, if received within the time for the original submission. Belated submissions may be rejected.

(c) *Consideration of requests.* While a determination as to whether to grant a request for confidential treatment is pending, the information for which confidential treatment is requested shall be treated as confidential by the Department. A determination normally shall be made within 10 business days after the receipt of information accompanied by a conforming request for confidential treatment, whether, and, if so, to what extent, the request for confidential treatment shall be granted and whether claims submitted under paragraph (a)(2) are justified.

(d) *Treatment of information where request for confidential treatment is granted.* (1) If a request for confidential treatment of information is granted, the information covered thereby will not be made available, except pursuant to § 355.20, for inspection or copying,

(i) By any person other than an officer or employee of the United States Government directly involved with carrying out the investigation in connection with which the information is submitted, or

(ii) by a person who has been specifically authorized to receive such information by the person who requests the confidential treatment.

(2) Information for which confidential treatment is granted shall be made available to officers and employees of the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express, written consent of the Secretary.

(3) Information submitted in confidence by a foreign government shall be made available only to the extent, and under the procedures, provided in Executive Order 12065 of June 28, 1978 (43 FR 28949), or any superseding or amending Order.

(e) *Treatment of information where request for confidential treatment is denied.* Should it be determined that any part of the material for which confidential treatment has been requested (1) does not warrant confidential treatment in whole or in part, (2) is in a form which cannot reasonably be associated with, or otherwise used to identify, the operations of a particular person and thus should not be treated as confidential, or (3) that information claimed not susceptible to a non-confidential summary is in fact capable of such treatment, the Department shall notify the person who submitted the information. Unless the person submitting the information thereafter agrees that the information (including any summarized or approximated presentation thereof) may be treated as non-confidential information or provides a summary of matters found to be capable of such treatment, such information (including any summarized or approximated presentation thereof) shall be returned to the submitting person and not considered in the proceeding.

355.19 Standards for determining confidentiality of information.

(a) *In general.* Information ordinarily will be considered to be privileged or confidential only if its disclosure would be likely:

(1) To cause substantial harm to the competitive position of the person submitting the information;

(2) To have a substantial adverse effect upon the person supplying the information or upon the person from whom the information was obtained; or

(3) To impair the ability of the United States Government to obtain in the future necessary information, not required by law to be provided, from the same person or others similarly situated.

(b) *Information ordinarily regarded as appropriate for disclosure.* Except as provided in paragraph (c), information ordinarily will be regarded as appropriate for disclosure if it relates to:

(1) Prices, market conditions, terms of sale or similar information, that is published or otherwise available to the public;

(2) Laws, regulations, Executive Orders, or other official documents which are published in the country by which adopted, as well as translations thereof; or

(3) Information submitted by the petitioner or other domestic interested party concerning the operations of a foreign interested party, except to the extent that it might disclose the identity of confidential sources.

(c) *Information ordinarily regarded as privileged or confidential.* Information will ordinarily be regarded as privileged or confidential if it would disclose:

(1) Business or trade secrets;

(2) Production costs;

(3) Distribution costs;

(4) Prices of actual transactions or offers;

(5) The names of particular customers or suppliers;

(6) The exact amounts of the gross subsidies received and used by an enterprise; or

(7) The names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested and approved by the Secretary.

§ 355.20 Limited disclosure of certain confidential information under an administrative protective order.

(a) *In General.* (1) Any confidential information (other than information submitted in confidence by a foreign government which is restricted from disclosure pursuant to statute or Executive Order), including some or all of the information described in § 355.19(c), may be made available to an attorney or other representative under a protective order as described in paragraph (b). Forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this regulation will be made available. The application for disclosure pursuant to protective order filed by an attorney or other representative of a party to the proceeding must (i) describe with particularity the information requested and set forth the reasons for the request, (ii) indicate the procedures to be followed to avoid unauthorized disclosure of the information requested, and (iii) demonstrate good cause for release of such information.

(2) Upon receipt of an application for disclosure of confidential information under a protective order, the Secretary will inform the person from whom the information was obtained of the request and provide an opportunity for such person to comment thereon.

(3) In determining whether to release information under a protective order, the Secretary shall weigh whether the need of the person requesting the information outweighs the need of the person submitting it for continued confidential treatment. Account also shall be taken of the probable effectiveness of the sanctions described under paragraph (e) of this section, or other sanctions as may be prescribed for breach of the order. Generally, disclosure under a protective order will be made only to attorneys who are subject to disbarment from practice in the event of a violation of the order.

(4) Should it be determined to release information under a protective order, the person submitting the information will be so notified. If the person submitting the information does not agree to the release of the information under protective order, such information shall be returned to the submitting person and not considered in the proceeding.

(b) *Protective Order.* The protective order under which information is made available to the attorney or other representative of a party to the proceeding shall require that attorney or representative to submit a personal sworn statement that he/she will:

(1) Not divulge any of the information so obtained and not otherwise available to him to any other person other than:

(i) Personnel of agencies of the United States Government directly responsible for conducting the proceeding in question who are involved in such proceeding;

(ii) The person from whom the information was obtained;

(iii) An attorney in good standing employed on behalf of the party requesting the disclosure who has furnished an appropriate, similar statement; or

(iv) Those persons other than attorneys employed by or supervised by the attorney or representative (but in no case including officers, partners, associates and employees of the party represented or any other domestic competitor of the foreign firm whose information is involved) having a need therefore in connection with preparing oral or written statements in the proceeding, who shall have furnished a similiar statement;

(2) Use such information solely for the purposes of the proceeding then in progress;

(3) Not consult with any person other than a person described in paragraph (b)(1)(i) or (ii) concerning such confidential information without obtaining the approval of

the Department and the party (or the attorney for the party) from whom such confidential information was obtained;

(4) Take adequate precautions to ensure the security of the confidential materials and the information contained therein subject to the protective order; and

(5) Promptly report any breach of such agreement to the Secretary.

(c) *Acknowedgement of sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) shall include an acknowledgement by the person providing it that breach thereof:

(1) May subject the following persons to disbarment from practice before any constituent agency of the Department for up to seven years following publication of a determination that the order has been breached:

(i) The person submitting the statement;

(ii) Any firm of which such person is a partner, associate, or employee; and

(iii) Such person's partners, associates, employer and employees;

(2) Shall, in the case of an attorney, lead to referral of such breach at the ethics panel of the appropriate bar associations; and

(3) Shall subject the offender and the party he represents to such other administrative sanctions determined to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(d) *Final disposition of materials released under protective order.* Upon completion of a proceeding, or at such earlier date as may be determined appropriate for particular data, the security of confidential information shall be protected by requiring each attorney or other representative to return all copies of materials released to them pursuant to this section and all other materials containing the confidential information (such as notes or charts based on any such information received under protective order), accompanied by a certificate from the attorney or other representative to whom the material was delivered or disclosed and each person specified in paragraphs (b)(1)(C) or (D) of this section, attesting to his/her personal, good faith effort to determine that no other copies of such materials have been made available to or retained by the party he represents or any other person to whom disclosure was not specifically authorized.

(e) *Sanctions for breach of protective Order.* (1) The Secretary shall determine whether any person has violated a protective order, and, as a sanction, may:

(i) Bar any such person and any firm of which such person is a partner, associate, or employee, or any partner, associate, employer, or employee of such person, from representing any other person's interest before any constituent agency of the Department in any capacity for a period of up to seven years from the date of publication in the Federal Register of a notice that the existence of a breach has been determined to exist;

(ii) In the case of a violation of this section by an attorney, refer such breach to the ethics panel of the appropriate bar associations; and

(iii) Subject the offender and the party he represents to such other administrative sanctions as are determined by the Secretary to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(2) Any person to whom such sanctions are proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 355.21 Information exempt from disclosure.

Information which might otherwise be available under this subpart shall be exempt from disclosure if it relates to any matter which is required to be kept confidential pursuant to privilege, statute or Executive Order. This includes information that has been provided to the United States in confidence by a foreign government or international organization of governments. Such information currently is restricted from disclosure pursuant to Executive Order No. 12065 of June 28, 1978 (43 FR 28949).

Subpart C—Countervailing Duty Procedures and Determinations

§ 355.25 Procedures for self-initiation.

(a) *General.* Whenever the Secretary determines, from information available to him, that a countervailing duty investigation is warranted into the question of whether the duty imposed by section 701(a) of the Act should be imposed with respect to a particular class or kind of merchandise imported into the United States, he shall publish in the Federal Register a "Notice of Initiation of countervailing duty Investigation," provided that if such merchandise is produced or exported from a country which is a country under the Agreement, such notice shall be published only after giving such country an opportunity for consultation. The notice is to include:

(1) A description of the merchandise involved;

(2) The name of the country of exportation to the United States and, if the merchandise is produced in a country other than that from which it is exported, the country in which the merchandise is produced;

(3) A summary of the information received that would, if found to be accurate, require the imposition of duties pursuant to section 701(a) of the Act; and

(4) A statement that the investigation will be terminated without further notice upon publication of notice of a preliminary of final negative injury determination by the Commission.

(b) *Information provided to the Commission.* Upon initiation of the investigation, the Commission will be notified promptly, and will be provided with such information as is available relating to the matter under investigation, including any available information on the amount of the net subsidy and the volume of trade. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.26 Procedures for initiation by petition.

(a) *Contents of petition.* Any interested party, as defined in subparagraph (C), (D), or (E) of section 771(9) of the Act, who has reason to believe that a subsidy is being provided with respect to merchandise imported into the United States and, except for dutiable merchandise of a country which is not a country under the Agreement (hereinafter "non-agreement country"), that an industry in the U.S. is being or is likely to be materially injured or its establishment is materially retarded by reason of imports of that merchandise may file a petition on behalf or an industry pursuant to section 701(a) of the Act with the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230, requesting the imposition of additional duties in an amount equal to the alleged subsidy.

The petition shall contain, or be accompanied by, information, to the extent reasonably available to the petitioner, in subsantially the following form:

(1) The name and address of the petitioner and any other person, firm, or association the petitioner represents, if appropriate;

(2) The industry on whose behalf the petition is filed, including the names of other enterprises included in such industry;

(3) A statement indicating whether the applicant has initiated proceedings pursuant to sections 337 and 732 of the Act (19 U.S.C. 1337, 1673a) or section 301 of the Trade Act of 1974 (19 U.S.C. 2411), or has filed, or is filing, for import relief pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), or has initiated proceedings pursuant to section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), with respect to the merchandise which is the subject of the proceeding.

(4) A detailed description of the imported merchandise in question, including its technical characteristics and uses, and, where appropriate, its tariff classification under the Tariff Schedules of the United States;

(5) The name of the country or countries from which the merchandise is being, or is likely to be, exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(6) The names and addresses of enterprises believed to be benefitting from the subsidy and exporting the merchandise so benefitted to the United States;

(7) All pertinent facts with regard to the alleged subsidy including, if known, the statutory or other authority under which it is provided, the manner in which it is paid and the value of such subsidy when received and used by producers or sellers of the merchandise;

(8) In addition to information concerning alleged subsidies, information as to individual sales (including customers) and prices thereof on sales by foreign manufacturers, producers or exporters to the United States during the period to be investigated;

(9) The volume and value of imports of the merchandise from the country in question in the most recent two-year period, and also other periods if the petitioner believes such other periods to be more representative, or, if the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(10) The names and addresses of enterprises believed to be importing the merchandise;

(11) The names and addresses of the other enterprises in the United States engaged in the production, manufacture or sale of like merchandise. If numerous, information need not be provided with respect to any enterprises that accounted for less than 2% of domestic production, manufacture or sale of like merchandise during the most recent 12-month period;

(12) Information as to the material injury or threat thereof to, or the material retardation of the establishment of, a United States industry by reason of the imported merchandise alleged to be subsidized, as described in 19 CFR 207.11 and 207.26.

(13) If "critical circumstances" are alleged, information as to:

(i) Material injury which is difficult to repair;

(ii) Massive imports in a relatively short period; and

(iii) How the product benefits from an export subsidy which is inconsistent with the Agreement; and

(14) Any other documentation on which petitioner relies in making its petition. Forms for the submission of petitions may be adopted from time to time. The use of such forms shall not be mandatory, provided the information required thereby and reasonably available to the petitioner is otherwise included in the petition.

(b) *Translations to English.* Unless such requirement is waived in individual cases, any information submitted in the petition or in support thereof, which is in a foreign language, must be accompanied by an English translation.

(c) *Simultaneous filing with Commission.* Except for petitions with respect to dutiable merchandise from non-agreement countries, the petitioner shall file a copy of the petition with the Commission on the same day as the petition is filed with the Secretary and shall so certify in submitting the petition to the Secretary.

(d) *Confidentiality of information.* Any petition which contains information for which confidential treatment has been requested and which is essential to support the petition will not be considered to have been received in acceptable form unless the requirements of § 355.18(a) of this part are met.

(e) *Amendment of petition.* Upon timely receipt of additional information, the Secretary shall allow amendment of the petition. Except for petitions with respect to dutiable merchandise from non-agreement countries, any such amendment must be filed with the Commission on the same day as they are filed with the Secretary.

(f) *Form and number of copies.* The petition and, to the extent feasible, all supporting information, shall be submitted on letter-size paper, double spaced type written or printed, in at least 10 copies.

(g) *Notification of affected country's representative.* Upon receipt of a petition, a non-confidential copy with a non-confidential summary of confidential data contained in the petition shall promptly be delivered to a representative in Washington, D.C. of the affected country or countries in which merchandise subject to the investigation is manufactured or produced.

(h) *Additional information concerning requirements for petitions.* Additional information concerning requirements for petitions may be obtained by contacting the office of the Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230; (202) 377-2867.

§ 355.27 Determination of sufficiency of petition.

(a) *Determination of sufficiency.* Within 20 days after a petition is filed under § 355.26 a determination shall be made by the Secretary on the sufficiency of the petition. A petition is considered to be filed at the time it is received by the Secretary.

(b) *Notice.* If that petition properly alleges the basis on which a countervailing duty may be imposed under section 701(a) of the Act, contains information reasonably available to the petitioner supporting the allegations, and is filed by an interested party described in subsection (C), (D), or (E) of section 771(9) of the Act, an investigation shall be initiated and a notice of "Initiation of Countervailing Duty Investigation" shall be published in the Federal Register. The notice shall contain a description of the merchandise subject to the investigation, based upon consultation between the Secretary and the Commission.

(c) *Insufficiency of petition.* If it is determined that a petition does not properly allege the basis on which a countervailing duty may be imposed under section 701(a) of the Act, does not contain information deemed reasonably available to the petitioner supporting the allegations, or is not filed by an interested party described in subsection (C), (D), or (E) of section 771(9) of the Act, the petition shall be dismissed and the proceeding terminated. The petitioner shall be notified in writing of the reasons for dismissal, and a notice of "Dismissal of Countervailing Duty Petition" shall be published in the Federal Register, which shall summarize the reasons for dismissal of the petition.

(d) *Notice to Commission.* A copy of any determination hereunder shall be furnished promptly to the Commission. If the investigation is initiated, such information as has been received relating to the matter under investigation shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.28 Preliminary determinations.

(a) *In general.* Within 85 days after the date on which a petition is filed under section 702(b) of the Act, or an investigation is commenced under section 702(a) of the Act, (1) A preliminary determination shall be made, based upon the best information available at the time of the determination, as to whether there is a reasonable basis to believe or suspect that a subsidy is being provided with respect to the merchandise which is the subject of the investigation; except that where merchandise from either a country under the Agreement or duty-free merchandise is involved, such determination shall not be made before an affirmative preliminary determination by the Commission under section 703(a) of the Act.

(2) If the determination is affirmative, the amount of the net subsidy shall be estimated and stated.

(3) If separate enterprises have received materially different benefits, such differences shall also be estimated and stated.

(4) Notice of the determination, the parties affected, and the estimated net subsidy shall be published in the Federal Register. The determination, which shall contain a statement of the facts and conclusions of law upon which it is based, shall be mailed or otherwise delivered to all parties to the proceeding and the Commission.

(b) *Extraordinarily complicated cases.* (1) If a case is determined to be extraordinarily complicated, the preliminary determination shall be made no later than the 150th day after the petition is filed under section 702(b) of the Act, or an investigation is commenced under section 702(a) of the Act.

(2) Any determination that a case is "extraordinarily complicated" shall be based on express findings that:

(i) The importing and exporting parties are cooperating with the investigation;

(ii) The case is extraordinarily complicated by reason of (A) the number and complexity of the alleged subsidy practices under investigation, (B) the novelty of the issues presented, (C) the need to determine the extent to which particular subsidies are used by individual manufacturers, producers, exporters, or (D) the number of firms whose activities must be investigated; and

(iii) Additional time is needed to make the preliminary determination.

(3) All parties to the proceeding shall be notified in writing of any determination to treat the case as "extraordinarily complicated," not later than 20 days before the date on which the preliminary determination would otherwise be required under section 703(b) of the Act. Upon making such a determination, a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, which notice shall summarize the reasons for the postponement.

(c) *Request for extension by petitioner.* If a request for an extension, stating the reasons for the request, is received from the petitioner no later than 25 days before the preliminary determination would otherwise be required under section 703(b) of the Act, the preliminary determination may be postponed until not later than the 150th day after the date on which the petition is filed. Upon acting on such a request a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, stating it has been made at the petitioner's request.

(d) *Contents of preliminary determination.* The preliminary determination shall include conclusions with regard to all facts and issues of law considered material to the determination, and shall, if affirmative:

(1) Order the suspension of liquidation of all entries of merchandise subject to the determination which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register; and

(2) Impose provisional measures by requiring a cash deposit, or the posting of a bond or other security for each entry of the merchandise concerned equal to the estimated amount of the net subsidy applicable to such merchandise. The posting of a bond or other security will be deemed adequate unless the revenue will not be sufficiently protected.

(e) *Commission access to information.* All information upon which the determination was based and which the Commission may consider relevant to its injury determination shall be made available to the Commission. Information for which confidential treatment has been granted by the Secretary shall be made available to the Commission only upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Secretary.

§ 355.29 Critical circumstances determinations.

(a) *Determination.* If, not less than 30 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then at the time the preliminary determination is made or, if such determination is due within 20 days or has already been made, then within 1 month after the allegation is received, a determination shall be made whether there is a reasonable basis to believe or suspect that there have been massive imports of the merchandise subject to the investigation over a relatively short period, and if so, whether the alleged subsidy is an export subsidy inconsistent with the Agreement. If, not more than 30 but not less than 20 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then no preliminary determination as to critical circumstances shall be made. A finding as to critical circumstances shall be included pursuant to § 355.33(b) in the affirmative final determination. In making such determination, account shall be taken of such factors as the import penetration of the subject merchandise and historic patterns of importation.

(b) *Notification of Commission.* The Commission shall be notified promptly of any determination under this section.

(c) *Suspension of liquidation.* Upon an affirmative preliminary determination of critical circumstances, any suspension of liquidation ordered under Section 703(d)(1) of the Act shall apply, or if notice of suspension of liquidation has already been published, such suspension shall be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(d) *Publication of notice.* Upon an affirmative preliminary determination of critical circumstances, a notice thereof shall be published in the Federal Register, either as part of the notice of preliminary determination, or, if occurring later, as a separate notice of "Preliminary Determination of Critical Circumstances."

§ 355.30 Termination of investigation.

(a) *Termination upon withdrawal of petition.* A countervailing duty investigation may be terminated by the Secretary at any time upon withdrawal by the petitioner of the petition on which the investigation was initiated, after notice to all other parties to the investigation and consultation with the Commission. No investigation shall be terminated unless it is determined such termination is in the public interest. Notice of any termination shall be published in the Federal Register, together, where appropriate, with a copy of any correspondence exchanged with the petitioner on the basis of which the petitioner withdrew the petition and the investigation was terminated.

(b) *Termination upon negative determination.* An investigation shall be deemed terminated, without further comment or action, upon publication of any negative final determination or a negative preliminary or final determination by the Commission on the issue of injury.

§ 355.31 Suspension of investigation.

(a) *Agreements to eliminate or completely offset a subsidy or to cease exports.* An investigation may be suspended at any time before a final determination if the government of the country in which the subsidy practice allegedly occurs agrees, or exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation agree:

(1) To eliminate completely the subsidy or to offset completely the amount of the net subsidy, with respect to the merchandise exported directly or indirectly to the United States; or

(2) To cease exports of that merchandise to the United States, within 6 months after the date on which the proceeding is suspended.

(b) *Agreements eliminating injurious effect*—(1) *Generally.* An investigation may be suspended at any time before a final determination upon acceptance of an agreement from a government of the country in which the subsidy practice exists, or from exporters accounting for substantially all of the imports of the merchandise which is the subject of the investigation, if it is determined:

(i) Extraordinary circumstances are present; and

(ii) The agreement will eliminate completely the injurious effect of the exports to the United States of the merchandise which is the subject of the investigation.

(2) *Additional requirements.* Except for the case of an agreement by a foreign government to restrict the volume of imports of merchandise into the United States which is the subject of the investigation, no agreement under paragraph (b) of this section may be accepted unless:

(i) The suppression or undercutting of prices of like domestic products by imports of the merchandise will be prevented; and

(ii) At least 85 percent of the net subsidy will be eliminated or offset with respect to each exporter subject to the agreement.

(3) *Quantitative restrictions agreements.* An agreement to restrict the volume of imports of merchandise which is the subject of the investigation may be accepted only from the government of the country from which such merchandise is exported.

(c) *Definition of "substantially all."* For purposes of section 704(b) and (c) of the Act, exporters who account for "substantially all" of the imports in question shall mean exporters who have accounted for no less than 85 percent by volume of the subject merchandise imported into the United States during the period of investigation, or such other recent, representative period determined appropriate. The number and identity of affected exporters shall be considered no less frequently than once annually in connection with the determination required under section 751 of the Act, and, if appropriate, additional or different exporters may be required to furnish assurances to ensure continued applicability of the assurance to the requisite percentage of the affected trade.

(d) *Definition of "extraordinary circumstances."* For purposes of section 704(c) of the Act, "extraordinary circumstances" shall mean circumstances in which: (1) Suspension of the investigation will be more beneficial to the domestic industry than continuation of the investigation, and (2) the investigation is complex. For purposes of this section, "complex" shall mean there are a large number of alleged subsidy practices which are complicated, the issues raised are novel, or the number of exporters involved is large.

(e) *Monitoring of agreements.* No agreement under section 704 of the Act shall be accepted unless effective monitoring of the agreement is practicable. In accepting assurances and in monitoring compliance therewith, the Secretary shall not be obliged to ascertain on a continuing basis the level of domestic prices of merchandise like that covered by the agreement.

(f) *Public interest.* No agreement under section 704 of the Act shall accepted unless the agreement is determinated to be in the public interest.

(g) *Exports not to increase during interim period.* No agreement under section 704(b) of the Act shall be accepted unless that agreement provides an adequate means of ensuring that the quantity of the merchandise covered by that agreement and exported to the United States during the period provided for the elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined to be appropriate to the case. In ordinary circumstances, the representative period shall refer either to the six months preceding the month in which the petition was filed or the comparable six-month period of a year earlier, whichever more accurately reflects the historical level of importation absent import surges. If deemed necessary and appropriate, an order excluding from entry, or withdrawal from warehouse, for consumption, any entries of the subject merchandise in excess of the quantity exported to the U.S. during the period determined to be representative may be issued by the Secretary.

(h) *Procedures for suspension of investigtaions.* Prior to accepting any agreement under section 704:

(1) The petitioner shall be notified and consulted with concerning the Secretary's intention to suspend the investigation. A copy of the proposed agreement shall be furnished to the petitioner no less than 30 days prior to the proposed suspension of the investigation. Any such agreement shall contain the procedures to be followed to monitor compliance, and a statement of the compatability of the agreement with the requirements of subsections (b) and (d) or (c) and (d) of section 704 of the Act;

(2) All parties to the proceeding shall be notified of the proposed suspension not less than 30 days prior thereto; and

(3) All parties to the proceeding and other government agencies which may have an interest in the effects of the agreement shall be afforded an opportunity to submit written comments and information for the record with respect to the prospposed suspension.

(i) *Issuance of an Affirmative Preliminary Determination.* Upon acceptance of an agreement to suspend an investigation, a "Notice of Suspension of Countervailing Duty Investigation" shall be published in the Federal Register, including a summary of the principal provisions of the agreement on the basis of which the investigation was suspended. Unless an Affirmative Preliminary Determination has already been issued, an "Affirmative Preliminary Determination" shall be published together with the notice suspending the investigation.

(j) *Suspension of liquidation*—(1) *Elimination of subsidy; complete offset of net subsidy or cessation of exports.* If an agreement is accepted which provides for the elimination of a subsidy, complete offset of the net subsidy, or cessation of exports of the subsidized merchandise to the United States pursuant to section 704(b) of the Act, then, notwithstanding the issuance of an Affirmative Preliminary Determination, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If liquidation has previously been suspended in the investigation, such suspension shall, without further comment or action, terminate on the date the notice is published and estimated countervailing duties shall be refunded, or other appropriate bonds or security shall be released.

(2) *Other suspension agreements.* Agreements to suspend an investigation other than those described in paragraph (j)(1) of this section shall not affect the suspension of liquidation of entries of merchandise (except that the security required may be adjusted to reflect the effect of the agreement) until the Commission has completed its review of the suspension agreement, if such review is requested. If no request for review of suspension is received by the Commission within 20 days after the "Notice of Suspension of Countervailing Duty Investigation" is published, the suspension of liquidation shall, without further comment or action, terminate on the 21st day after such publication.

(k) *Commission review.* Where the Commission, having undertaken a review of an agreement to suspend an investigation other than one described in paragraph (j)(1) of this section, makes a negative determination, the Secretary shall resume his investigation on the date of publication of such determination as if the affirmative preliminary determination under § 355.28 had been made on that date. Where the Commission makes an affirmative determination in such a case, the Secretary shall continue the suspension of the investigation and terminate any suspension of liquidation which may then be in effect, and all estimated countervailing duties shall be refunded and all appropriate bonds or other security shall be released.

(l) *Continuation of investigation.* By filing a request with both the Secretary and, where the investigation involves merchandise from a country under the Agreement or duty-free merchandise, with the Commission on the same date, the foreign government of the country, the products of which are the subject of an agreement to suspend an investigation, or the petitioner or any other domestic interested party (within the meaning of subparagraph (C), (D), or (E) of Section 771(9) of the Act), which is a party to the proceeding, may during the 20-day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon receiving such a request, the Secretary and Commission shall continue the investigation. If, as a result of such continued investigation, a Final Negatve Determination is made or the Commission makes a negative injury determination, the investigation shall be terminated, without further comment or action, and notice thereof published in the Federal Register. If an Affirmative Final Determination is made and the Commission makes an affirmative injury determination, the suspension shall remain in effect in accordance with its terms. The provisions of paragraph (j) of this section regarding the suspension of liquidation of entries of merchandise covered by the agreement are unaffected by this subsection.

§ 355.32 Violations of agreements.

(a) *In general.* If it is determined that an agreement on the basis of which an investigation was suspended is being, or has been, violated, or no longer meets the requirements of subsections (b) and (d) or (c) and (d) of section 704 of the Act:

(1) Liquidation of unliquidated entries of merchandise shall be suspended effective as of the later of the date which is 90 days before the date of publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption;

(2) If the investigation was not completed, the investigation shall be resumed as if an Affirmative Preliminary Determination was made on the day on which the investigation is resumed;

(3) If the investigation was completed, a Countervailing Duty Order shall be issued, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(4) The petitioner, interested parties who are or were party to the proceedings, and the Commission shall be notified and notice of the determination shall be published in the Federal Register, including a summary of the reasons therefor.

(b) *Notice of possible breach.* If there is reason to believe that an agreement no longer meets the requirements of the Act or that an agreement is being breached, and the breach involves a violation of the agreement other than that described in paragraph (c), each party to the agreement shall be notified at the earliest moment, so that alternative or amended agreements may be considered before the agreement is deemed violated.

(c) *Intentional violations.* The intentional violation of any agreement entered into under section 734 of the Act shall subject any person who is party to the agreement and is determined to have intentionally violated it to the same penalties as for a fraudulent violation of section 592 of the Act (19 U.S.C. 1592). The procedural requirements of section 592 shall be applicable to any action to collect penalties.

§ 355.33 Final determinations.

(a) *In general.* Within 75 days after the date of a Preliminary Determination, a Final Determination shall be made whether a subsidy is being provided with respect to the merchandise subject to the investigation.

(b) *Critical circumstances.* If critical circumstances have been alleged and an Affirmative Final Determination reached, then it shall include a finding of whether the subsidy is inconsistent with the Agreement, and whether there have been massive imports of the class or kind of merchandise involved over a relatively short period.

(c) *Disclosure of information.* Promptly after making the Preliminary Determination, there shall be disclosed to each interested party then a party to the proceedings who requests such disclosure, all non-confidential information and, if made available under § 355.20, confidential information, on the basis of which the preliminary determination was made.

(d) *Opportunity of parties to present views.* Prior to the Final Determination, an opportunity shall be provided for all parties to be heard orally in person or by counsel before a designated official pursuant to § 355.35. Written views will be received from any person at any time, provided that, unless the Secretary or the officer presiding at the hearing otherwise provides for good cause, consideration of written views may be declined if received more than 10 days after the transcript of any hearing is available to the public or less than 30 days before the Final Determination is due, whichever is earlier.

(e) *Notice of Determination.* Notice of the Final Determination, the parties affected and the estimated net subsidy, if any, shall be published in the Federal Register. Copies of the determination shall be mailed or otherwise delevered to all parties to the proceeding and the Commission.

(f) *Contents of Final Determinations.* The Final Determination shall include conclusions with regard to all facts and issues of law considered material to the Determination. If the Determination is affirmative, the amount of the net subsidy shall be estimated and stated, and the nature of the subsidy determined. If separate enterprises have received materially different benefits, such differences shall be estimated and stated.

(g) *Effect of Negative Final Determination.* If the Final Determination is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated countervailing duties refunded and all appropriate bonds or other security released.

(h) *Effect of Negative Final Determination by Commission.* If the Final Determination by the Commission under section 735(b) of the Acts is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated countervailing duties refunded and all appropriate bonds or other security released.

§ 355.34 Submission of information and written views.

(a) *Submission of information and written views.* Except in situations where it would be manifestly unjust, any information or written views submitted in connection with a proceeding shall be considered only if received within the time established by these regulations or specific instructions applicable to such submission; any information or written views received after such time shall not be considered in the proceeding. Any written views intended to be considered in connection with a proceeding shall be submitted on letter-size paper, double spaced, in at least 10 copies, to the Secretary, Attention: Assistant Secretary for Trade Administration, Room 3850, Department of Commerce, Washington, D.C. 20230. Except when the Secretary determines it will be unduly burdensome to the party to the proceeding, in which case the Secretary shall effect the service, a copy shall also be served at the same time, by mail or personal service, on counsel for each party to the proceeding as of the date of such filing or if not represented by counsel, then the person designated for such purpose by the party. A certificate of such service shall accompany any such filing.

(b) *Designation of agent.* Every party to the proceeding shall designate a person to receive service of all papers filed in a proceeding. A list of such designated agents shall be made available by the Secretary.

§ 355.35 Hearings.

During the course of an investigation, normally within 30 days after the Preliminary Determination is published, a hearing shall be held, upon the request of any party to the proceeding, to provide interested persons an opportunity to present views orally. Such hearing shall be conducted before a designated official. A verbatim record shall be transcribed and copies of the transcript made available to the public. The hearing shall not be subject to the Administrative Procedure Act, and shall not involve the examination or cross examination of witnesses under oath. At the discretion of the officer conducting the hearing, persons not parties to the proceeding, including officials of other agencies, or departments of the United States Government, may present views. If not included in the notice of the preliminary determination, notice of such a hearing shall be published in the Federal Register. All requests for hearings shall be accompanied by a statement outlining the issues which the person wishes to discuss. Reasonable notice of the hearing will be given to all parties to the proceeding. One week prior to such a hearing, pre-hearing briefs shall be submitted to the Secretary and exchanged among parties to the proceeding. Persons will be restricted, in their oral presentations, to issues raised in this pre-hearing brief. Any person not submitting such a brief ordinarily will be restricted to rebuttal of points made by other persons. Ordinarily, the presiding officer at a hearing will provide an opportunity for the submission of post-hearing briefs, within the time limits prescribed at the hearing. The Secretary may at any time invite any person to supply him with information or argument.

§ 355.36 Countervailing duty order.

Within seven days of notification by the Commission that it has made an affirmative determination on the issue of injury, except for an affirmative determination of injury made pursuant to a request that the investigation be continued under section 704(g) of the Act, or simultaneously with the publication of a final affirmative determination in an investigation involving dutiable merchandise from a non-agreement country, a countervailing Duty Order shall be published that:

(a) Directs customs officers to assess a countervailing duty on the merchandise found to be benefitting from a subsidy, equal to the amount of the net subsidy determined or estimated to exist, such assessment to be made within 6 months after the date on which the Secretary has received satisfactory information upon which such assessment may be based, but in no event later than 12 months after the end of the exporter's annual accounting period within which the merchandise is entered, or withdrawn from warehouse, for consumption;

(b) Includes a description of the class or kind of merchandise to which it applies, in such detail as is deemed necessary;

(c) Pending liquidation of entries of the merchandise, requires the deposit of estimated countervailing duties in an amount equal to the amount of the net subsidy found to exist, at the same time as estimated normal customs duties on that merchandise are deposited; and

(d) Includes information concerning "critical circumstances," if found to exist.

§ 355.37 Differences in determined and estimated countervailing duties.

If the amount of the estimated countervailing duty deposited pursuant to a Preliminary Affirmative Determination is different from the amount of the countervailing duty to be assessed pursuant to a Countervailing Duty Order, the difference with respect to merchandise entered, or withdrawn from warehouse, for consumption before publication of notice of the Commission's affirmative final determination or, in those investigations involving dutiable merchandise from non-agreement countries, the Secretary's final determination shall be:

(a) Disregarded, to the extent that the estimated duty is less than the duty determined to be assessable under the Order; or

(b) Refunded, to the extent that estimated duties collected were more than the duty determined to be assessable under the Order.

§ 355.38 Effect on firms not benefitting from subsidy.

Any firm which does not benefit from a subsidy alleged or found to have been granted to other firms producing or exporting the merchandise subject to the investigation shall, on timely application therefor, be excluded from a Countervailing Duty Order. An application shall be considered timely if made within 30 days after publication of a "Notice of Initiation of Countervailing Duty Investigation." The name of any such firm which is determined to have satisfied the requirements for exclusion will be published in the Federal Register.

§ 355.39 Verification of information; use of best information available.

(a) Information upon which a Final Determination is based shall be verified. The methods and procedures used to verify information in a particular case shall be published in the Federal Register in the "Notice of Affirmative Final Countervailing Duty Determination," or "Notice of Negative Final Countervailing Duty Determination," as appropriate.

(b) Whenever information cannot be satisfactorily verified, or is not submitted in timely fashion or in the form required, the submitter of the information will be notified and the affected determination will be made on the basis of the best information then otherwise available, which may include the information submitted in support of the petition. An opportunity to correct inadequate submissions will be provided if the corrected submission is received in time to permit proper analysis and verification of the information concerned; otherwise no corrected submission will be taken into account. Where a party to the proceeding unreasonably refuses to provide requested information, that fact may be taken into account in determining what is the best available information.

(c) In verifying information under this section, access to files, records and personnel with relevant information may be requested by appropriate officers of the Secretary as a part of the verification process. In addition to information relating to alleged subsidies, information as to sales (including customers) and prices thereof on sales to the United States during the period of investigation by foreign manufacturers, producers or exporters shall be requested. Failure to permit such access may prevent satisfactory verification and require the application of paragraph (b).

(d) All responses to requests for information must be in English and in the form requested unless such requirement is waived. Failure to supply information in the form requested may require the application of paragraph (b).

(e) Responses to all questionnaires directed to foreign parties shall be forwarded by airmail or faster means simultaneously to the Secretary and to the U.S. Embassy in the country in question and shall be deemed timely received if received at either office within the time required by any specific request, order or regulation.

§ 355.40 Interest on certain overpayments and underpayments.

Interest shall be payable, at the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of duty is finally payable, or 8 percent, whichever is higher, on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which notice of an affirmative determination by the Commission with respect to that merchandise is published.

§ 355.41 Administrative review of determinations.

(a) *In general.* At least once during each 12-month period beginning on the anniversary of the date a Countervailing Duty Order or notice of the suspension of an investigation is published, the amount of any net subsidy or the status of, and compliance with, any agreement by reason of which an investigation was suspended, shall be redetermined.

(b) *Changed circumstances.* (1) Whenever the Secretary receives information concerning, or a request for the review of a Countervailing Duty Order or an agreement on the basis of which an investigation was suspended which shows changed circumstances sufficient to warrant review of such Order or agreement, he shall, before conducting such review, publish a "Notice of Intention to Review Suspension Agreement" or "Notice of Intention to Review Countervailing Duty Order" in the Federal Register. Such Notice shall indicate the merchandise concerned and any changed circumstances or other significant issues then known which will be considered during the review.

(2) In the absence of good cause shown, no review based on allegations of changed circumstances shall be conducted within 24 months after the date of an Affirmative Final Determination or a determination to suspend an investigation.

(c) *Procedures.* Written views on proposed revisions of a Countervailing Duty Order, including new facts for examination, will be accepted at any time, but unless changed circumstances are alleged, normally will not be processed sooner than 90 days before such redetermination is due for publication. Questionnaires requesting current relevant data will normally be sent 85 days before such date, requesting reply within 30 days of receipt.

(d) *Disclosure and hearings.* A disclosure may be made, generally about 30 days prior to the date the redetermination is due for publication, on request by parties then party to the proceeding, to such interested parties of all non-confidential information and, where appropriate, pursuant to a protective order, confidential information, on the basis of which the redetermination will be made. Written views may be presented, and an opportunity to present oral views may be requested, by any party to whom disclosure was made. After providing an opportunity for comment by interested parties on the proposed determination, a revised Countervailing Duty Order, including any revised basis for the assessment of duties on the merchandise, shall be published in the Federal Register.

§ 355.42 Revocation of Countervailing Duty Order and termination of suspended investigation.

(a) *In general.* Whenever the Secretary determines that a subsidy within the meaning of section 771(5) of the Act is no longer being bestowed upon the manufacture, production or exportation of merchandise which is the subject of a Countervailing Duty Order and is satisfied that there is no likelihood of resumption of the subsidy, he may act to revoke or terminate, in whole or in part, such order or suspended investigation. Ordinarily, consideration of such revocation or termination will be made only subsequent to a review as described in § 355.41.

(b) *Application to revoke or terminate.* An application for the revocation of any Order or the termination of a suspended investigation, premised upon the lack of a legal basis for the imposition of countervailing duties, may be submitted in writing by an interested party to the Secretary together with detailed information detmonstrating that the imported merchandise no longer benefits from a net subsidy. Ordinarily, such an application will be considered only if the production, manufacture, or exportation of the merchandise has been without benefit of a net subsidy for at least a two-year period following the date of publication in the Federal Register of a Countervailing Duty Order or notice of suspension of investigation; *provided, however,* that where a firm can demonstrate that neither the production nor exportation of the merchandise had benefitted from a net subsidy during the period of or immediately prior to the investigation (but the firm did not file a timely application for exclusion under § 355.38), the two-year period shall begin on the date of the preliminary determination regardless of whether that determination was affirmative or negative.

(c) *Revocation or termination by the Secretary.* The Secretary may on his own initiative revoke an Order or terminate a suspended investigation after three years if he is satisfied that (1) there is no likelihood of resumption of imports of the merchandise to the United States, the production, manufacture or export of which benefitted from a net subsidy, or (2) the subsidy itself, has been eliminated or (3) other changed circumstances which exist warrant a revocation of an Order or the termination of a suspended investigation.

(d) *Revocation or termination based upon injury reconsideration.* [Reserved]

(e) *Notice of revocation or termination.* If it appears to the Secretary from his review under section 751 of the Act and an application filed pursuant to paragraph (a) of this section (or from his own determination under paragraph (b) of this section) that a revocation or termination may be appropriate, he will publish a "Notice of Tentative Determination to Revoke or Terminate." Before the Secretary may tentatively revoke an Order or terminate a suspended investigation pursuant to paragraph (a) of this section the parties who are subject to the revocation or the termination must agree in writing to an immediate suspension of liquidation and reinstatement of the Order or continuation of the investigation, as appropriate, if circumstances develop which indicate that the merchandise thereafter imported into the United States is benefitting from a net subsidy on its manufacture, production or exportation. Opportunity for interested parties to present views with respect to the tentative revocation will be provided.

(f) *Final determination.* As soon as possible after publication of a "Notice of Tentative Determination to Revoke or Terminate" the Secretary will determine whether final revocation or termination is warranted. In cases where an application for a revocation or termination is based on the absence of a net subsidy with respect to the imported merchandise and the dispositive date for establishing a two-year period of no net subsidy is the date of publication of the Order, the Secretary may determine that a final revocation or termination is warranted only if the firm involved provides information showing no receipt of a net subsidy with respect to the subject merchandise up to the date of publication of the "Notice of Tentative Determination to Revoke or Terminate." Ordinarily, a revocation or termination will be effective with respect to all merchandise, which is the subject of the revocation or termination, entered, or withdrawn from warehouse, for consumption on or after the date on which the "Notice of Tentative Determination to Revoke or Terminate" is published in the Federal Register. The liquidation of all merchandise which is the subject of a tentative revocation or termination and which is entered or withdrawn from warehouse, for consumption on or after the date of publication or the "Notice of Tentative Determination to Revoke or Terminate," will be ordered suspended pending the final determination on revocation or termination.

§ 355.43 Subsidy practices discovered during an investigation.

If, during an investigation, a practice is discovered which appears to be a subsidy with respect to the merchandise under investigation, which practice was not included in the allegations in the petition, that practice shall be included in the scope of the investigation if the Secretary determines it is practicable in light of the time limits applicable to such investigation. If not practicable, the Secretary shall either (a) allow the petitioner to withdraw the petition and resubmit it including any newly discovered subsidy practice or (b) initiate a separate investigation of the newly discovered subsidy practice. In all cases, the parties to the proceeding shall be notified of any practice discovered and whether it will be included in the investigation. Failure to include any practice so discovered in a pending investigation is without prejudice to its consideration pursuant to § 355.41.

§ 355.44 Library of foreign subsidy practices and countervailing measures.

(a) The Secretary shall establish a library of information relating to foreign subsidy practices and countervailing measures. Copies of material in the library shall be made available to the public upon payment of the costs of preparing such copies. The fees charged for providing copies shall be the same as for providing copies pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552) (see 15 CFR 4.9).

(b) Information on subsidy practices which are the subject of an investigation or are discovered during an investigation with respect to merchandise not the subject of the investigation (other than confidential information) shall be transferred to the library.

ANNEX I—ADMINISTRATIVE AND INTERPRETATIVE GUIDELINES FOR DETERMINATION AND CALCULATION OF SUBSIDIES

1. The physical incorporation test: The non-excessive rebate or remission of indirect taxes (sales, value-added, and consumption taxes) is not regarded as a subsidy. However, when a system of indirect taxation operates in such a manner that the full amount of the tax is not directly assesed on the product in question, at a time when it is in substantially the condition in which it would be exported, the physical incorporation test is applied. Under that test, the rebate or remission of fiscal charges on items physically incorporated in the exported product is not considered a subsidy. Rebated taxes on services, catalysts and other items (e.g. energy) not incorporated in the product (or necessary waste), however, directly related to the production and exportation of the merchandise, would be treated as an excessive rebate and, therefore, a subsidy.

2. Export payments as an estimate of indirect taxes paid: Generally the payment to an exporter, of a lump sum calculated and identified as a non-excessive rebate of the indirect tax incidence on the exported product, and its components, will not be treated as a subsidy if the government has reasonably calculated and documented the actual tax experience of the product under investigation.

3. Drawback of duties: The drawback, rebate or remission of Customs duties not in excess of the actual duties due or paid, on imported items physically incorporated in the final product is not regarded as a subsidy. The drawback remission or drawback of duties on imported capital goods or other items involved in the production but not physically incorporated in the exported merchandise would be counteravailable.

4. Income and social security taxes: The rebate of or reduction in the amount of direct taxes imposed on an exported product is generally regarded as a subsidy. Similarly, special (industry specific) income tax provisions which apply irrespective of export performance may constitute a subsidy to the extent that the provisions deviate from the normal tax provisions of the country in question. For purposes of assessing a countervailing duty, the savings derived from this benefit ordinarily would be allocated over the recipient company's production of the merchandise during the most recent business year.

215. Effect of inflation or devaluation on the value of the net subsidy: The value of a subsidy may be diminished in certain circumstances because of delayed payment during a period of inflation or currency devaluation. Allowance for the reduction in value of the subsidy will be made only where the Government of the exporting country specifically provides by decree or regulation that the payment of the subsidy amount be delayed.

Administrative delays in payment are not regarded as "mandated" within the meaning of section 771(6)(B) of the Act. The loss of value is calculated on the basis of the potential interest earned in the country of exportation during the period of delayed payment.

ANNEX II—COUNTRIES WHICH HAVE SIGNED THE AGREEMENT [RESERVED]

Annex III—*Countervailing Duty Orders Currently in Effect*

Country	Commodity	Treasury decision	Action
Argentina	Textile mill products and men's and boys' apparel	78-445	Bounty declared—rate.
	Nonrubber footwear	79-18	Bounty declared—rate.
Australia	Sugar content of certain articles	39541	Declared rate.
		49157	New estimated rates.
		52923	Contingent suspension of rates.
		54582	New rates.
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		74-133	New rate.
		75-54	New rate.
		76-167	New rate.
	Butter	42937	Bounties declared—rates.
		43067	New rates.
		48551	New estimated rate.
Austria	Cheese	76-10	Bounty declared—rate.
		76-11	Imposition of countervailing duties waived.
Belgium	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Brazil	Footwear, non-rubber	74-233	Bounty declared—rate.
	Leather handbags	76-3	Bounty declared—rate.
	Certain castor oil products	76-80	Bounty declared—rate.
	Yarn	77-87	Bounty declared—rate.
	Scissors and shears	77-64	Bounty declared—rate.
Canada	Cheese, 93-94 score from whole milk, cheddar, including "washed curd," types.	50093	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	Cheese, 93-94 score, blue-vein, of Roquefort type	53182	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	X-radial steel belted tires manufactured by Michelin Tire Manufacturing Company of Canada, Ltd.	73-10	Bounty declared—rate.
		74-237	New estimated rate.
		74-254	Final rate declared.
	Glass beads	76-247	Bounty declared—rate.
	Groundfish	77-107	Bounty declared—rate.
	Groundfish	78-181	Bounty declared—rate.
	Fish	79-07	Bounty declared—rate.
	Optic Liquid level sensing probes	79-09	Bounty declared—rate.
Colombia	Leather handbags	78-125	Bounty declared—rate.
Cuba	Cordage	53534	Bounties declared—rates.
		54650	T.D. 53534 modified.
Denmark	Butter	47896	Bounties declared—rate.
		48734	Discontinued as to direct shipments.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
	Butter cookies	78-12	Bounty declared—rate.
European Communities (consisting of France, the United Kingdom, West Germany, Luxem-	Frozen boneless beef	76-109	Bounty declared—rate.

Annex III—*Countervailing Duty Orders Currently in Effect*—Continued

Country	Commodity	Treasury decision	Action
bourg, Ireland, the Netherlands, Denmark, Italy, and Belgium.			
	Dextrines and soluble or chemically treated starches derived from potato starch.	80-2	Bounty declared—rate.
	Tomato products	79-233	Bounty declared—rate.
	Sugar	78-253	Bounty declared—rate.
Finland	Cheese	76-173	Bounty declared—rate.
		76-174	Imposition of countervailing duties waived.
France	Canned tomato paste	68-111	Bounty declared—rate.
	All merchandise except that not benefited by Decree 68-581 dated June 29, 1968, as amended by Decree 68-599 dated July 6, 1968.	68-192	Bounty declared—rate.
		68-270	New rate.
		69-41	Discontinued as to merchandise exported from France on and after Feb. 1, 1969.
	Barley	71-117	Bounty declared—rate.
	Molasses	71-118	Bounty declared—rate.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Great Britain	Spirits	34466	Bounties declared—rates.
		34752	Descriptions.
		34982	No bounty on rum.
		35089	Proof gallons.
		35510	Alcoholic perfumery.
		35668	Orange bitters.
		47826-7	Quantity for computing duty.
		52555	Bounty on plain spirits terminated.
		55812	Modified as to certain spirits.
		49355	Bounties declared—rates.
	Sugar	50108	New rates.
		50127	New rates.
	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Greece	Tomato products	72-88	Bounty declared—rate.
		74-65	Declared—rates.
Ireland	Spirits	47753	Bounties declared—rates.
		47826-7	Quantity for computing duty.
		75-113	Bounty declared—rate.
	Dairy products	75-114	Imposition of countervailing duties waived.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.
Italy	Galvanized fabricated structural steel units for the erection of electrical transmission towers.	67-102	Bounties declared—rate.
		68-112	Bounty declared—rate.
	Canned tomatoes and canned tomato concentrates	69-13	New rate.
		70-83	New rate.
		72-234	Discontinued as to canned tomatoes and canned to-

Annex III—*Countervailing Duty Orders Currently in Effect*—Continued

Country	Commodity	Treasury decision	Action
			mato concentrates exported from Italy directly to the United States on and after July 15, 1971; new rate as to canned tomatoes and canned tomato concentrates exported from Italy to countries other than the United States and subsequently imported into the United States.
		68-149	Bounty declared—rate.
	Steel welded wire mesh	68-288	Bounty declared—rate.
	Ski-lifts and parts thereof	69-91	New rate.
		69-113	Bounties declared—rates.
	Certain steel products	72-122	Bounty declared—rate.
	Compressors and parts thereof	73-85	Bounty declared—rate.
	Refrigerators, freezers, other refrigerating equipment, and parts thereof.	74-165	Bounty declared—rates.
	Die presses	75-113	Bounty declared—rate.
	Dairy products	75-114	Imposition of countervailing duties waived.
		75-300	Bounty declared—rate.
	Canned hams and canned shoulders	75-301	Imposition of countervailing duties waived.
	Float glass manufactured by Societa Italiana Vetro, S.p.A. and Fabbrica Pisana, S.p.A.	76-9	Bounty declared—rate.
	Cap screws, 1/4″ in diameter and over, of iron or steel	76-225	Bounty declared—rate.
	Iron or steel chains and parts	77-249	Bounty declared—rate.
India	Oleoresins	79-07	Bounty declared—rate.
	Footwear	79-275	Bounty declared—rate.
Japan	Certain fasteners	79-158	Bounty declared—rate.
	Nuts, bolts, and capscrews	77-128	Bounty declared—rate.
	Iron and steel chains and parts thereof	78-295	Bounty declared—rate.
Korea	Bicycle tires and tubes	79-13	Bounty declared—rate.
	Handbags	77-152	Bounty declared—rate.
Luxembourg	Dairy products	75-113	Bounty declared—rates
		75-114	Imposition of countervailing duties waived
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived
Mexico	Carbon steel and high strength steel plate	76-7	Bounty declared—rate
		76-8	Imposition of countervailing duties waived
The Netherlands	Dairy products	75-113	Bounty declared—rate
		75-114	Imposition of countervailing duties waived
	Canned hams and canned shoulders	75-300	Bounty declared—rate
		75-301	Imposition of countervailing duties waived
Norway	Cheese, other than Jarlsberg	76-152	Bounty declared—rate
		76-153	Imposition of countervailing duties waived.
Pakistan	Certain textile products	79-188	Bounty declared—rate.
Republic of Korea	Footwear	76-13	Bounty declared—rate.
		76-14	Imposition of countervailing duties waived
		76-341	
		76-342	
Spain	Bottled green olives	74-234	Bounty declared—rate.
	Non-rubber footwear	74-235	Bounty declared—rate.
	Vitamin K	76-321	Bounty declared—rate.
	Unwrought zinc	77-103	Bounty declared—rate.
	Iron or steel chains and parts thereof	78-20	Bounty declared—rate.

Annex III—*Countervailing Duty Orders Currently in Effect*—Continued

Country	Commodity	Treasury decision	Action
	Ampicillin trihydrate	79-90	Bounty declared—rate.
	Amoxicillin trihydrate	79-211	Bounty declared—rate.
	Ferroalloys	80-11	Bounty declared—rate.
	Oleoresins	79-71	Bounty declared—rate.
Sweden	Cheese	76-188	Bounty declared—rate.
		76-189	Imposition of countervailing duties waived.
	Rayon staple fiber	79-141	Bounty declared—rate.
Switzerland	Emmenthaler and Gruyere cheese	76-5	Bounty declared—rate.
		76-6	Imposition of countervailing duties waived
Taiwan	Footwear	76-340 76-343	Bounty declared—rate.
	Handbags	77-203	Bounty declared—rate.
Uruguay	Leather wearing apparel	78-154	Bounty declared—rate.
	Leather Handbags	78-33	Bounty declared—rate.
	Textile mill products and men's and boys' apparel	78-444	Bounty declared—rate.
	Nonrubber footwear	78-32	Bounty declared—rate.
West Germany	Dairy products	75-113	Bounty declared—rate.
		75-114	Imposition of countervailing duties waved.
	Canned hams and canned shoulders	75-300	Bounty declared—rate.
		75-301	Imposition of countervailing duties waived.

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